

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

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| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 02-20 |
| |) | (IEPA No. 442-01-AC) |
| HOUSEWRIGHT LUMBER CO. and |) | (Administrative Citation) |
| WILLIAM A. HOUSEWRIGHT, |) | |
| |) | |
| Respondents. |) | |

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On October 22, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Housewright Lumber Co. and William A. Housewright (respondents). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that respondents violated Sections 21(p)(1), (p)(3), (p)(4) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). The Agency further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, deposition of waste in standing or flowing waters, and the deposition of construction or demolition debris. The complaint concerns respondents' facility in Fountain Green Township, Hancock County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the Agency served the administrative citation on respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406. Respondents filed a petition for review on November 26, 2001.

On July 24, 2002, the parties filed a stipulation and proposal for settlement. Respondents admit to violating Sections 21(p)(1) and (p)(3) of the Act, and agree to pay a civil penalty of \$3,000. The Board accepts the stipulation and proposed settlement. The stipulation and proposal for settlement does not dispose of the alleged violations of Sections 21(p)(4) and (p)(7) of the Act. The Board dismisses these charges to effectuate the parties' intent that respondents pay a total penalty of \$3,000.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the Board finds that Housewright Lumber Co. and William A. Housewright (respondents) violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). The Board dismisses the alleged violations of Sections 21(p)(4) and (p)(7) of the Act (415 ILCS 4/21(p)(4), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). Accordingly, respondents must pay a civil penalty of \$3,000 no later than July 31, 2002, the date set forth in the stipulated agreement. Respondents must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the respondents' social security numbers or federal employer identification number must be included on the certified check or money order.
3. Respondents must send the certified check or money order to:

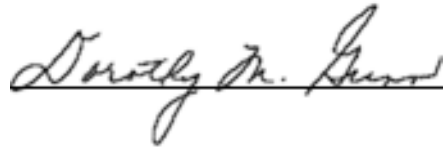
Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its

final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 8, 2002, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board