

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	AC 02-42
v.)	(IEPA No. 50-02-AC)
)	(Administrative Citation)
HERBERT L. BOARD,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On March 11, 2002, the Illinois Environmental Protection Agency (Agency) filed a timely administrative citation against Herbert L. Board (respondent). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Board violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). The Agency further alleges that Mr. Board violated these provisions because he caused or allowed the unpermitted open dumping of waste in a manner that resulted in litter. Mr. Board owns the property at issue, which is located West of Route 1 in Elbridge Township, Edgar County. The administrative citation was based on an inspection by Agency Field Inspector Curt White on January 8, 2002.

As required, the Agency served the administrative citation on Mr. Board 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 violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406.

On April 15, 2002, Mr. Board timely filed a petition for review. *See* 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). On July 24, 2002, the Agency and Mr. Board filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement. Pursuant to the terms of the proposed settlement, Mr. Board admits the violation of Section 21(p)(1) of the Act, agrees to pay a \$1,500 civil penalty, and agrees to dismissal of his petition for review. The Board accepts the stipulation and proposed settlement.

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

ORDER

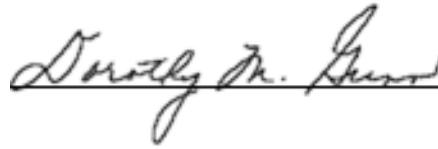
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the April 15, 2002, petition for review is dismissed. The Board finds that Mr. Board violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002), and must pay a civil penalty of \$1,500, in monthly installments of \$125, beginning on August 1, 2002, and continuing on the first of each month until paid in full.
3. Mr. Board 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 Mr. Board's social security number or federal employer identification number must be included on the certified checks or money orders.
3. Mr. Board must send the certified checks or money orders to:

Illinois Environmental Protection Agency
Fiscal Services Division
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 violation continues.

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, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board