

ILLINOIS POLLUTION CONTROL BOARD

July 6, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	
)	AC 06-11
PAUL FREEMAN and FREEMAN)	(IEPA No. 350-05-AC)
ENVIRONMENTAL SERVICES, INC., an)	(Administrative Citation)
Illinois corporation,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On October 6, 2005, the Illinois Environmental Protection Agency (the Agency) timely filed an administrative citation against Paul Freeman and Freeman Environmental Services, Inc. (respondents). See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on August 15, 2005, respondents violated Section 21(p)(3) and (p)(7) (415 ILCS 5/21(p)(3) and (p)(7) (2004)) of the Illinois Environmental Protection Act (Act). The Agency further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) open burning; and (2) deposition of general construction or demolition debris or clean construction or demolition debris at 720 North Division Street, Carterville, Williamson County.

On November 8, 2005, respondents timely filed a petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). The respondents allege that (1) they did not cause or allow the alleged violations; and (2) the violations resulted from uncontrollable circumstances. The Board accepted the petition for hearing on November 17, 2005.

On June 21, 2006, the parties filed a stipulation of settlement and dismissal of the respondents' petition for review. Pursuant to the terms of the stipulation and proposal for settlement, the respondents admit they caused or allowed open dumping resulting in deposition of construction or demolition debris, but neither admit nor deny that they caused or allowed open dumping resulting in open burning. The respondents agree to pay a civil penalty of \$3,000.

The parties agree that the waste located at the site that was the subject of the administrative citation has been removed and properly disposed.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2004)), the Board finds that respondents violated Section 21(p)(3) and (7) of the Act. 415 ILCS 5/21(p)(3) and (7) (2004). Under Section 42(b)(4-5), the statutory established penalty is \$3,000 for the first-time violations. 415 ILCS 5/42(b)(4-5) (2004). The Board accordingly assesses a civil penalty of \$3,000.

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

ORDER

Pursuant to the stipulated agreement, the Board finds that Paul Freeman and Freeman Environmental Services, Inc. (respondents) violated Section 21(p)(3) and (7) of the Act. 415 ILCS 5/21(p)(3) and (7) (2004).

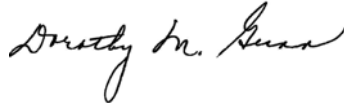
1. Respondents must pay a civil penalty of \$3,000 pursuant to 415 ILCS 5/42(b)(4-5) (2004).
2. Respondents must pay the civil penalty on or before August 7, 2005, the first business day after the thirtieth day following the date of this order. The payment must be made by certified check, money order or electronic funds transfer, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the respondents' social security number or federal employer identification number must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to the respondents.
3. Respondents must send the certified check, money order, or electronic funds transfer, and the remittance form 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) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. The respondents' November 8, 2005 petition for review is dismissed.
6. Respondents must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 *et seq.* (2004)), and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
7. The Agency will not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil action.

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) (2004); *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, hereby certify that the Board adopted the above opinion and order on July 6, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board