

ILLINOIS POLLUTION CONTROL BOARD
July 6, 2006

OGLE COUNTY SOLID WASTE)	
MANAGEMENT DEPARTMENT,)	
)	
Complainant,)	
)	
v.)	AC 06-31
)	(Site Code 1418215008)
WAYNE L. FISHER and CHRISTINA C.)	(Administrative Citation)
FISHER,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On March 27, 2006, the Ogle County Solid Waste Management Department timely filed an administrative citation against Wayne L. Fisher and Christina C. Fisher (respondents). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Ogle County Solid Waste Management Department alleges that on January 30, 2006, respondents violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2004)).¹ The Ogle County Solid Waste Management Department further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) open burning; and (3) deposition of general construction or demolition debris or clean construction or demolition debris. The alleged violations occurred at a site located in Ogle County.

As required, the Ogle County Solid Waste Management Department served the administrative citation on respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On May 3, 2006, 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). Because the postmark date of the petition was within the time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2). Respondents asserted that they were contesting the administrative citation. *See* 35 Ill. Adm. Code 108.206.

By an order dated May 18, 2006, the Board accepted the petition for hearing. But, the Board did not accept that filing as a complete petition to contest the administrative citation and did not authorize a hearing pursuant to 35 Ill. Adm. Code 108.300. The Board found that the petition was deficient in that it did not specify the grounds for appeal, as required by 35 Ill. Adm. Code 108.206. The Board directed respondents to amend their petition for review to include this

¹ The Ogle County Solid Waste Management Department further alleges violations of Sections 9(a) and (c) and 21(a), (d), and (e) of the Act (415 ILCS 5/9(a) and (c) and 21(a), (d), and (e) (2004)), but Section 31.1 does not authorize the issuance of an administrative citation for those alleged violations.

information on or before June 19, 2006, or the Board would dismiss the petition and enter a default in this matter pursuant to 35 Ill. Adm. Code 108.406. The Board received no such amended petition within the time allowed. Accordingly, the Board finds that each of respondents violated Section 21(p)(1), (p)(3), and (p)(7) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$4,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

1. The Board finds that Wayne L. Fisher and Christina C. Fisher violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act as alleged. Wayne L. Fisher and Christina C. Fisher must pay a civil penalty of \$4,500 no later than August 7, 2006, which is the first business day after the 30th day after the date of this order.
2. Wayne L. Fisher and Christina C. Fisher must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund. The case number, case name, and Wayne L. Fisher's and Christina C. Fisher's social security number must be included on the certified check or money order.
3. Wayne L. Fisher and Christina C. Fisher must send the certified check or money order and the remittance form to:

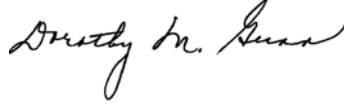
Ogle County Treasurer's Office
Ogle County Courthouse
Oregon, Illinois 61061
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. 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) (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, 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 that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board