

ILLINOIS POLLUTION CONTROL BOARD  
September 7, 2006

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	AC 06-30
v.	)	(IEPA No. 44-06-AC)
	)	(Administrative Citation)
RICK LINNABURY,	)	
	)	
Respondent.	)	

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

On March 14, 2006, the Illinois Environmental Protection Agency (Agency) filed a timely administrative citation against Mr. Rick Linnabury. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Linnabury violated Sections 21(p)(1) and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2004)). The Agency further alleges that Mr. Linnabury violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter, and the deposition of general or clean construction or demolition debris. Mr. Linnabury's facility is located at 708 North Broadway Street, Newman, Douglas County.

As required, the Agency served the administrative citation on Mr. Linnabury 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). 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) (2004); 35 Ill. Adm. Code 108.204(b), 108.406.

On April 27, 2006, Mr. Linnabury timely filed a petition for review. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). On August 28, 2006, the Agency and Mr. Linnabury filed a stipulation and proposed settlement, accompanied by a request for dismissal of the respondent's petition for review. Pursuant to the terms of the proposed settlement, Mr. Linnabury admits the alleged violations of Section 21(p)(1) of the Act, and agrees to pay a \$1,500 civil penalty. To effectuate the parties' intent that Mr. Linnabury pay a total penalty of only \$1,500, the Board dismisses the alleged violation of Section 21(p)(7) of the Act. The stipulation of settlement requires Mr. Linnabury to pay the statutory civil penalty by October 9, 2006, which is the first business day after 30 days from the date of this order. The Board accepts the stipulation and proposed settlement.

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

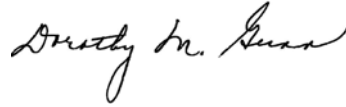
**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the Board dismisses Mr. Rick Linnabury's petition for review filed April 27, 2006.
3. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(7) is dismissed. The Board finds that Mr. Linnabury violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 by October 9, 2006, which is the first business day after 30 days from the date of this order.
4. Mr. Linnabury 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. Linnabury's social security number or federal employer identification number must be included on the certified check or money order.
5. Mr. Linnabury must send the certified check or money order to:  
  
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
6. 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)).
7. 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) (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 September 7, 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