

ILLINOIS POLLUTION CONTROL BOARD  
October 19, 2006

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 06-50
	)	(IEPA No. 98-06-AC)
MARLA LEWIS GATES, MARK GATES and	)	(Administrative Citation)
MARK KINGSLEY LEWIS,	)	
	)	
Respondents.	)	

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

On June 2, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Marla Lewis Gates, Mark Gates, and Mark Kingsley Lewis (respondents). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). On July 25, 2006, respondent Mark Gates filed a petition to review the administrative citation.

On August 4, 2006, the Board issued an order directing respondent Mark Gates to amend his petition to contest the administrative citation or face dismissal of his appeal, and directing the Agency to file sufficient proof of service as to Marla Lewis Gates and Mark Kingsley Lewis. *See IEPA v. Gates*, AC 06-50, slip op. at 2 (Aug. 4, 2006). The parties were both given until September 5, 2006, to correct their respective filing deficiencies. *Id.*

To date, neither Mark Gates nor the Agency has submitted any pleadings to correct the aforementioned deficiencies. Accordingly, the Board dismisses Mark Gates' petition to contest the administrative citation, as well as the administrative citations against Marla Lewis Gates and Mark Kingsley Lewis.

The Agency alleges that Mark Gates violated Sections 21(p)(1) and (7) of the Illinois Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) and (7) (2004). According to the Agency's administrative citation, the Mark Gates violated these provisions of the Act by causing or allowing the open dumping of waste, resulting in litter and the deposition of construction or demolition debris at a site located in part of the west 1/2 of the southwest 1/4 of Section 8 in Township 21 North and Range 2 West of the 3rd Principal Meridian in Logan County (site). The Agency asks the Board to impose a \$1,500 civil penalty for each alleged violation.

As required, the Agency served the administrative citation on Mark Gates 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). Specifically, the Agency submitted proof that Mark Gates had received personal service of the administrative citation on June 13, 2006; consequently, any timely petition for review for this respondent would have to be postmarked on or before July 18, 2006.

*See* 35 Ill. Adm. Code 101.300(b)(2). Although Mark Gates did file a petition on July 18, 2006, that petition has been dismissed as indicated above because Mark Gates did not amend the petition as directed in the Board's August 4, 2006 order. Accordingly, the Board finds that Mark Gates violated Section 21(p)(1) and (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 two violations of Section 21(p) the total civil penalty is \$3,000. 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.

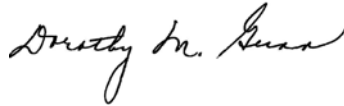
### **ORDER**

1. The Board finds that Mark Gates violated Sections 21(p)(1) and (7) of the Act as alleged. Mark Gates must pay a civil penalty of \$3,000 no later than November 20, 2006, which is the first business day after the 30th day after the date of this order.
2. Mark Gates must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mark Gates' social security number or federal employer identification number must be included on the certified check or money order.
3. Mark Gates must send the certified check or money order 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. Payment of this penalty does not prevent future prosecution if the violation continues.
6. The administrative citations against Marla Lewis Gates and Mark Kingsley are dismissed.

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 October 19, 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