

ILLINOIS POLLUTION CONTROL BOARD
December 7, 2006

COUNTY OF SANGAMON,)
)
 Complainant,)
)
 v.) AC 07-22
) (SCDPH No. 06-AC-1)
 JACK CALDWELL,) (Administrative Citation)
)
 Respondent.)

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

On October 18, 2006, the County of Sangamon timely filed an administrative citation against Jack Caldwell. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Sangamon alleged that on October 20, 2006 Jack Caldwell violated Section 21(p)(1) (p)(3), and 21 (p)(7) of the Environmental Protection Act (Act) 415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2004). The County of Sangamon further alleges that Jack Caldwell violated these provisions at the site located at 501 Oak Street, Williamsville, Sangamon County by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; and (2) open burning, and the deposition of (i) general construction or demolition debris as defined in Section 3.78 of the Act, 415 ILCS 5/3.78 (2000), or (ii) clean construction or demolition debris as defined in Section 3.78(a) of the Act, 415 ILCS 5/3.78(a) (2004).

On November 22, 2006, the County of Sangamon and Jack Caldwell filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). Jack Caldwell denies the alleged violations but agrees to pay a civil penalty of \$3,000. The County of Sangamon in turn agrees to dismissal of the alleged open burning violation. 415 ILCS 5/21(p)(3)(2004)).

The Board accepts the parties' November 22, 2006 stipulation and proposed settlement agreement. To effectuate the parties' agreement, the Board (1) directs Jack Caldwell to pay a civil penalty in the amount of \$3,000 for violation of Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2004)); and (2) dismisses that portion of the October 18, 2006 administrative citation the pertains to Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3)(2004)).

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

ORDER

1. The Board accepts and incorporates by reference the parties' November 22, 2006 stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(3) of the Act is dismissed. The Board finds that Jack Caldwell violated Sections

21(p)(1) and (p)(7) of the Act, and must pay a civil penalty of \$3,000 no later than January 8, 2007, which is the first business day after the 30th day after the date of this order.

3. Jack Caldwell must pay the civil penalty by certified check or money order, made payable to the Sangamon County Department of Public Health. The number, case name, and Jack Caldwell's social security number or federal employer identification number must be included on the certified check or money order.
4. Jack Caldwell must send the certified check or money order and the remittance form to the following person at the indicated address:

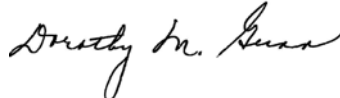
Sangamon County Department of Public Health
Attention: Sheri L. Carey
2501 North Dirksen Parkway
Springfield, Illinois 62702

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. 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 December 7, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board