

ILLINOIS POLLUTION CONTROL BOARD
December 21, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-56
)	(IEPA No. 128-06-AC)
LAKE WILDWIND PARK, L.L.C.,)	(Administrative Citation)
)	
Respondent.)	

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

Today the Board accepts a proposed settlement and dismissal of this administrative citation enforcement action. By way of background, complainant, the Illinois Environmental Protection Agency (Agency), timely filed an administrative citation against respondent Lake Wildwind Park, L.L.C. (Lake Wildwind) on June 26, 2006. The Agency alleged that Lake Wildwind violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2004)) by causing or allowing the open dumping of waste resulting in litter and open burning. The violations allegedly took place at Lake Wildwind's mobile home park located at 120 Hollyhock Lane in Woodford County. The site has been designated with Agency site code number 2038165008.

Lake Wildwind timely filed a petition to contest the administrative citation, which the Board accepted on August 4, 2006. On December 7, 2006, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, Lake Wildwind neither admits nor denies that it violated Section 21(p)(3) of the Act by causing or allowing the open dumping of waste resulting in open burning, but agrees to pay the statutory civil penalty amount of \$1,500. Stipulation at 2. The stipulation is silent as to the alleged violation of Section 21(p)(1) of the Act. Lake Wildwind agrees to the dismissal of its petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the alleged violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2004)), the Board therefore finds that Lake Wildwind violated Section 21(p)(3) of the Act. Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2004)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that Lake Wildwind pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Section 21(p)(1) of the Act.

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

ORDER

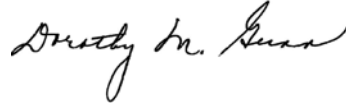
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Lake Wildwind violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2004)) by causing or allowing the open dumping of waste resulting in open burning.
3. Lake Wildwind must pay a total civil penalty of \$1,500 by January 22, 2007, which is the first business day following the 30th day after the date of this order. Payment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Lake Wildwind's federal employer identification number or social security number must be included on the certified check or money order.
4. Lake Wildwind 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
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the 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)).
6. The Board dismisses the alleged violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)) and Lake Wildwind's petition to contest the administrative citation.

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 21, 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