

ILLINOIS POLLUTION CONTROL BOARD
June 7, 2007

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-12
)	(IEPA No. 183-06-AC)
FRANCIS E. MORRIS,)	(Administrative Citation)
)	
Respondent.)	

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

On August 31, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Francis E. Morris. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Morris violated Sections 21(p)(1), (3), (4), and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (3), (4), and (7) (2004)). The Agency further alleges that Mr. Morris violated these provisions by causing or allowing the open dumping of waste in a matter resulting in: (1) litter; (2) open burning; (3) the deposition of waste in standing or flowing waters; and (4) the deposition of general or clean construction or demolition debris at a facility located at 22595 Vineyard Road in Omaha, Gallatin County. Today's order accepts a stipulation and proposed settlement between the parties.

As required, the Agency served the administrative citation on Mr. Morris 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 September 29, 2006, Mr. Morris timely filed a petition for review. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). On June 1, 2007, the Agency and Mr. Morris 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. Morris admits the alleged violation of Section 21(p)(1) of the Act, and agrees to pay a \$1,500 civil penalty. To effectuate the parties' intent that Mr. Morris pay a total penalty of only \$1,500, the Board dismisses the alleged violations of Sections 21(p)(3), (4), and (7) of the Act. 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. Morris' petition for review filed September 29, 2006.
3. Pursuant to the stipulated agreement, the alleged violation of Sections 21(p)(3), (4), and (7) are dismissed. The Board finds that Mr. Morris violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 by July 9, 2007, which is the first business day following the 30th day from the date of this order.
4. Mr. Morris must pay the civil penalty by certified check, money order, or electronic transfer of funds, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Morris' social security number or federal employer identification number must be included on the method of payment.
5. Mr. Morris must submit the certified check, money order or transfer of electronic funds 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)).

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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 7, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

ADMINISTRATIVE CITATION

AUG 31 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
FRANCIS E. MORRIS,)
))
Respondent.)

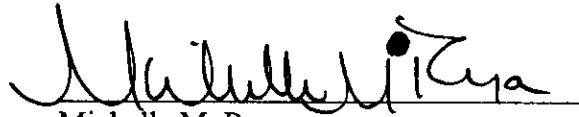
AC 07-12
(IEPA No. 183-06-AC)

NOTICE OF FILING

To: Francis E. Morris
329 County Road 320 E.
Norris City, Illinois 62869

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: August 23, 2006

VIOLATIONS

Based upon direct observations made by Maggie Stevenson during the course of her July 12, 2006 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2004).

- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of waste in standing or flowing waters, a violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4)(2004).

- (4) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris; or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7)(2004).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Six Thousand Dollars (\$6,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 30, 2006, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2004), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2004), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2004). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

Douglas P. Scott
Douglas P. Scott, Director *by wire*
Illinois Environmental Protection Agency

Date: 8/23/06

Prepared by: Susan E. Santarelli, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
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