

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2001

OGLE COUNTY,)	
)	
Complainant,)	
)	
v.)	AC 02-15
)	(County No. 1418015001)
STEVEN AND KAREN GILBERT and CURT)	(Administrative Citation)
NELSON,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On October 22, 2001, Ogle County timely filed an administrative citation against Steven and Karen Gilbert and Curt Nelson (respondents). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). Ogle County alleges that respondents violated Sections 21 (p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act)(415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2000)). Ogle County further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of construction or demolition debris at 14658 West Milledgeville Road, Polo, Ogle County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, Ogle County served the administrative citation on respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, the respondents must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondents fail to do so, the Board must find that the respondents committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406. Here, respondents failed to timely file a petition. However, on November 26, 2001, the parties filed a stipulation and proposal for settlement. The Board will construe the joint filing as a waiver of the default deadline.

Pursuant to the terms of the stipulation and proposal for settlement, respondent Curt Nelson admits that he caused or allowed the open dumping of waste that resulted in littering on the Gilberts’ property in violation of Section 21(p)(1) of the Act. Respondents Steven and Karen Gilbert do not admit the allegations contained in the administrative citation. All respondents agree to cease and desist from further violations.

This opinion constitutes the Board’s finding of fact and conclusions of law.

ORDER

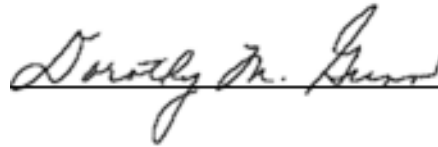
1. Pursuant to the stipulated agreement, the Board finds that Curt Nelson (Nelson) violated Section 21(p)(1) of the Act and dismisses the violations of Section 21(p)(3) and 21(p)(7). 415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2000). Accordingly, Nelson must pay a civil penalty of \$1,500 by January 2, 2002.
2. Nelson must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund. The case number, case name, and Nelson's social security number or federal employer identification number must be included on the certified check or money order.
3. Nelson must send the certified check or money order and the remittance form to:

Ogle County Treasurer's Office
Ogle County Courthouse
Oregon, IL 61061
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. 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) (2000); *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 6, 2001, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board