

ILLINOIS POLLUTION CONTROL BOARD

July 15, 2010

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-89
)	(IEPA No. 305-04-AC)
EARL and NORMA MARTIN,)	AC 04-90
)	(IEPA No. 306-04-AC)
Respondents.)	AC 04-91
)	(IEPA No. 308-04-AC)
)	(Administrative Citation)
)	(Consolidated)

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

For the reasons below, the Board accepts the proposed settlement and dismissal of these consolidated administrative citation enforcement actions. The Illinois Environmental Protection Agency (Agency) timely filed three separate administrative citations on June 28, 2004, against Earl and Norma Martin (Martins). The citations collectively alleged that the Martins violated Sections 21(p)(1), (p)(3), (p)(4), (p)(5), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(5), (p)(7) (2008)) by causing or allowing the open dumping of waste in a manner resulting in (1) litter, (2) open burning, (3) the deposition of waste in standing or flowing waters, (4) the proliferation of disease vectors, and (5) the deposition of general or clean construction or demolition debris. The violations allegedly took place at the Martins' facility located at County Road 2500 North in Rio Township, Knox County. The site is commonly known to the Agency as the "Martin Property" and is designated with Site Code No. 0958145002.

The Martins timely filed petitions to contest the administrative citations, which the Board accepted in three separate orders of August 5, 2004. On December 2, 2004, the Board consolidated the three cases on the Agency's motion. On June 29, 2010, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, the Martins admit they violated Sections 21(p)(1), (p)(3), and (p)(4) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of waste in standing or flowing waters. Stipulation at 2. The Martins agree to pay the total statutory civil penalty of \$4,500 for these three violations. *Id.* The Martins also agree to the dismissal of their petitions contesting the administrative citations. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citations has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citations 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) (2008)), the Board therefore finds that the Martins violated Sections 21(p)(1), (p)(3), and (p)(4) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4) (2008)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2008)) establishes a civil penalty of \$1,500 for each of these three violations. The Board accordingly assesses a total civil penalty of \$4,500. To effectuate the parties' intent that the Martins pay a total civil penalty of \$4,500, the Board dismisses all other alleged violations.

This opinion constitutes the Board's finding 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 the Martins violated Sections 21(p)(1), (p)(3), and (p)(4) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4) (2008)), as admitted. The Board dismisses all other alleged violations.
3. The Martins must pay a civil penalty of \$4,500 no later than August 16, 2010, which is the first business day following the 30th day after the date of this order. The Martins must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case numbers, case names, and the Martins' social security numbers must be included on the certified check or money order.
4. The Martins 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 Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
6. The Board dismisses the Martins' petitions to contest the administrative citations.

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) (2008); *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 July 15, 2010, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

JUN 28 2004

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

Respondents.

(IEPA No. 305-04-AC)

4. That on May 10, 2004, Jeff Port of the Illinois Environmental Protection Agency's Peoria Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Jeff Port during the course of his May 10, 2004 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2002).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in proliferation of disease vectors, a violation of Section 21(p)(5) of the Act, 415 ILCS 5/21(p)(5) (2002).
- (3) That Respondents 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) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondents are 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 Four Thousand Five Hundred Dollars (\$4,500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than July 30, 2004, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2002), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents 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) (2002), if Respondents fail to petition or elect 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

Renee Cipriano
Renee Cipriano, Director *by wcc*
Illinois Environmental Protection Agency

Date: 6/24/04

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

EARL and NORMA MARTIN,

Respondents.

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AC

(IEPA No. 305-04-AC)

FACILITY: Martin Property

SITE CODE NO.: 0958145002

COUNTY: Knox

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: May 10, 2004

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

RECEIVED
CLERK'S OFFICE

JUN 28 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

EARL and NORMA MARTIN,

Respondents.

AC

(IEPA No. 306-04-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2002).

FACTS

1. That Earl and Norma Martin ("Respondents") are the present owners and operators of a facility located at County Road 2500 North, Rio Township, Knox County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as the Martin Property.

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0958145002.

3. That Respondents, Earl and Norma Martin, have owned and operated said facility at all times pertinent hereto.

4. That on May 24, 2004, Jeff Port of the Illinois Environmental Protection Agency's Peoria Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Jeff Port during the course of his May 24, 2004 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2002).
- (2) That Respondents 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) (2002).
- (3) That Respondents 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) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondents are 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 Four Thousand Five Hundred Dollars (\$4,500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than July 30, 2004, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2002), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents 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) (2002), if Respondents fail to petition or elect 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

Renee Cipriano
Renee Cipriano, Director *by wrc*
Illinois Environmental Protection Agency

Date: 6/24/04

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
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(IEPA No. 306-04-AC)

FACILITY: Martin Property

SITE CODE NO.: 0958145002

COUNTY: Knox

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: May 24, 2004

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

STATE OF ILLINOIS
Pollution Control Board

(IEPA No. 308-04-AC)

1. That Earl and Norma Martin ("Respondents") are the present owners and operators of a facility located at County Road 2500 North, Rio Township, Knox County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as the Martin Property.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0958145002.
3. That Respondents, Earl and Norma Martin, have owned and operated said facility at all times pertinent hereto.
4. That on May 7, 2004, Jeff Port of the Illinois Environmental Protection Agency's Peoria Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Jeff Port during the course of his May 7, 2004 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2002).
- (2) That Respondents 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) (2002).
- (3) That Respondents 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) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondents are 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 Four Thousand Five Hundred Dollars (\$4,500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than July 30, 2004, unless otherwise provided by order of the Illinois Pollution Control Board.

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Renee Cipriano
Renee Cipriano, Director *by wee*
Illinois Environmental Protection Agency

Date: 6/24/04

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
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AC

(IEPA No. 308-04-AC)

FACILITY: Martin Property

SITE CODE NO.: 0958145002

COUNTY: Knox

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: May 7, 2004

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.