



ILLINOIS POLLUTION CONTROL BOARD

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January 16, 2014

Re: Illinois Environmental Protection Agency v. Terry L. Young
Board Docket AC 12-22

To reflect the parties' stipulation and proposed settlement and correct an error in the Board order entered on January 9, 2014, the Board files this changed order. The change is limited to penalty payment instructions on page 2 of the opinion and order.

The January 9, 2014 Order provided a date certain by which the entire penalty amount of \$1,500.00 must be paid by Mr. Young. IEPA v. Terry L. Young, AC 12-22, slip op. at 2 (Jan. 9, 2014). This changed order instead provides:

Respondent must pay a civil penalty of \$1,500.00 in monthly installments of \$50 to be paid on or before the 15th of each month until paid in full. The first payment is due February 17, 2014. Respondent must pay each installment of the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Respondent's social security number or federal employer identification number must be included on each of respondent's certified checks or money orders.

No other changes are made.

John T. Therriault
Clerk of the Board

ILLINOIS POLLUTION CONTROL BOARD

January 9, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-22
)	(IEPA No. 379-11-AC)
TERRY L. YOUNG,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On December 23, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Terry L. Young (Respondent). The Agency alleged that, on November 14, 2011, Respondent violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2012)) by causing or allowing open dumping that resulted in litter and the deposition of general construction or demolition debris or clean construction or demolition debris. The violations took place at Respondent's facility located at 961 Hanging Rock Road, Flora, Clay County. The site is known by the Agency as the Flora/Young, Terry L. site and designated with Site Code No. 0258035003.

On January 26, 2012, Respondent timely filed a petition to contest the administrative citations, which the Board accepted on February 2, 2012. On January 2, 2014, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review" (Stipulation). Under its terms, Respondent admits to the violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) and agrees to pay the statutory civil penalty of \$1,500.00 for the violation. Stipulation at 2. Respondent also agrees to diligently comply with the Act and to cease and desist from further violations of the Act. *Id.* The Stipulation also states that the waste that was the subject of this administrative citation has been removed and disposed of properly. *Id.* at 3. In addition, the Agency agrees not to refer the 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 proposed settlement and dismissal of this administrative citation enforcement action. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2012)), the Board therefore finds that Respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)). Section 42(b) (4-5) of the Act (415 ILCS 5/42(b)(4-5) (2012)) establishes a civil penalty of \$1,500.00 for this violation. The Board accordingly assesses a civil penalty of \$1,500.00. To effectuate the parties' intent that Respondent pay a total civil penalty of \$1,500.00, the Board dismisses the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2012)) and also dismisses Respondent's petition for review.

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 Terry L. Young (Respondent) violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2012)).
3. Respondent must pay a civil penalty of \$1,500.00 in monthly installments of \$50 to be paid on or before the 15th of each month until paid in full. The first payment is due February 17, 2014. Respondent must pay each installment of the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Respondent's social security number or federal employer identification number must be included on each of respondent's certified checks or money orders.
4. Respondent must send the certified checks or money orders to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
PO Box 19276
Springfield IL 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
6. The Board dismisses the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2012)) and also dismisses Respondent'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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 9, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board