

ILLINOIS POLLUTION CONTROL BOARD

February 6, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 13-21
)	(IEPA No. 231-12-AC)
STEVEN B. MEUSER & DEBORAH S.)	(Administrative Citation)
MEUSER and MEUSER CONSTRUCTION)	
AND EXCAVATING, INC.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by J.D. O’Leary):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on October 22, 2012 against Steven B. Meuser & Deborah S. Meuser and Meuser Construction and Excavating, Inc. (collectively, respondents). The Agency alleged that on September 17, 2012, respondents violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and 21(p)(7) (2012)) by causing or allowing open dumping that resulted in litter and deposition of construction or demolition debris. The violation allegedly took place at respondents’ construction and excavating facility located at the intersection of Meuser and South Washington Street in Paxton, Ford County. The property is commonly known to the Agency as the “Paxton/Meuser Construction & Excavation Inc.” site and is designated with Site Code No. 0530255054.

Respondents timely filed an amended petition to contest the administrative citation, which the Board accepted on January 10, 2013. On February 3, 2014, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review” (Stip.). Under its terms, respondents admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) by causing or allowing open dumping that resulted in litter. Stip. at 2. Respondents also agree to pay the statutory civil penalty of \$1,500 for this violation, “in \$250 installments, beginning 30 days from the date of the Board’s order accepting this stipulation and continuing monthly until paid in full.” *Id.* at 2. Respondents also agree to the dismissal of their 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 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) (2012)), the Board therefore finds that respondents 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 for this violation. The Board accordingly assesses a civil penalty of \$1,500 to be paid in monthly \$250 installments, beginning 30 days from the date of this order and continuing monthly until paid in full. To effectuate the parties' intent that respondents pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2012)) and dismisses respondents' amended 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 respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2012)).
3. Respondents must pay a civil penalty of \$1,500, to be paid in \$250 installments, beginning 30 days from the date of the Board's order accepting this stipulation and continuing monthly until paid in full. Respondents 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 respondents' social security number or federal employer identification number must be included on each certified check or money order.
4. Respondents must send each 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) (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 Environmental Protection Act (415 ILCS 5/21(p)(7) (2012)) and respondents' amended 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 opinion and order on February 6, 2014, by a vote of 4-0.

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, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
)
Complainant,)
)
)
v.)
)
)
STEVEN B. MEUSER & DEBORAH S. MEUSER and MEUSER CONSTRUCTION & EXCAVATION INC.,)
)
)
)
)
Respondents.)

AC **B-21**
(IEPA No. 231-12-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 (2010).

FACTS

1. That Steven B. Meuser & Deborah S. Meuser are the current owners and Steven B. Meuser and Meuser Construction & Excavation Inc. are the current operators ("Respondents") of a facility located at an area just southeast of the intersection of Meuser Drive and South Washington Street, Paxton, Ford County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Paxton/Meuser Construction & Excavation Inc.

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0530255054.

3. That Respondents have owned/operated said facility at all times pertinent hereto.

4. That on September 17, 2012, Mike Mullins of the Illinois Environmental Protection Agency's ("Illinois EPA") Champaign Regional Office inspected the above-described facility. A copy

of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 10-11-12, Illinois EPA sent this Administrative Citation via Certified

Mail No. 7010 2780 0002 1167 4891 7010 2780 0002 1167 4907
Steven & Deborah Meuser Meuser Construction & Excavation, Inc.

VIOLATIONS

Based upon direct observations made by Mike Mullins during the course of the September 17, 2012 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 Respondent's 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) (2010).
- (2) That Respondent's 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) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 Three Thousand Dollars (\$3,000.00). 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 November 30, 2012, 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 (2010), 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) (2010), 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 (2010). 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 Respondent.



John J. Kim, Interim Director
Illinois Environmental Protection Agency

Date:

10/5/12

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

RECEIVED
CLERK'S OFFICE

OCT 22 2012

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.)
)
STEVEN B. MEUSER & DEBRAH S.)
MEUSER and MEUSER CONSTRUCTION &)
EXCAVATION INC.,)
)
)
Respondents.)

AC 13-21
(IEPA No. 231-12-AC)

FACILITY: Paxton/Meuser Construction & Excavation, Inc.
SITE CODE NO.: 0530255054
COUNTY: Ford
CIVIL PENALTY: \$3,000.00
DATE OF INSPECTION: September 17, 2012

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.