

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2003

ILINOIS ENVIRONMENTAL PROTECTION)	
AGENCY,)	
)	
Complainant,)	
)	AC 02-61
v.)	(Administrative Citation)
)	
S.K. SERVICE CORPORATION,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by W.A. Marovitz):

On June 20, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Steve Koester d/b/a S&K Fence Company (Koester). The Agency alleges that Koester violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2002). The Agency alleges Koester violated these sections by allowing open dumping of waste in a manner resulting in litter, open burning and the deposition of general construction and demolition debris or clean construction or demolition debris. The violations allegedly occurred at Koester's facility located on the northeast corner of Tiffany Court, Champaign, Champaign County. On March July 25, 2002, Koester filed a petition for review contesting the administrative citation.

On May 5, 2003, the parties filed a joint motion for substitution of respondent and a stipulation of settlement and dismissal of respondent's petition for review. The parties agree that the proper respondent in this case is S.K. Service Corporation, and that S.K. Service Corporation (S.K. Service) should be substituted for Koester. The Board grants the motion for substitution and reflects the change in the above caption.

Pursuant to the terms of the stipulation and proposal for settlement, S.K. Service agrees to pay a penalty of \$1,500 for the alleged violation of Section 21(p)(3) (415 ILCS 5/21(p)(3) (2002)), but does not admit liability for the violations alleged in the administrative citation. To effectuate the parties' intent that S.K. Service pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Sections 21(p)(1) and (p)(7). The parties agree that the waste that was the subject of this administrative citation has been removed and properly disposed of.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2002)), the Board finds that S.K. Service has violated Section 21(p)(3). 415 ILCS 5/21(p)(3) (2002). Under Section 42(b)(4-5), the statutory penalty established for each violation is \$1,500 for a total of \$1,500. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$1,500. The Board notes that the parties' stipulation and proposal for settlement has S.K. Service paying the penalty by May 15, 2003. As that is the date of this order, the Board will grant S.K. Service until May 31, 2003, to pay the penalty.

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

ORDER

Pursuant to the stipulated agreement, the Board finds that S.K. Service violated Section 21(p)(3) of the Act. 415 ILCS 5/21(p)(3) (2002).

1. S.K. Service must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
2. S.K. Service must pay the civil penalty on or before May 31, 2003, by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and S.K. Service's federal employer identification number must be included on the certified check or money order.
3. S.K. Service must send the certified check or money order and the remittance form to:

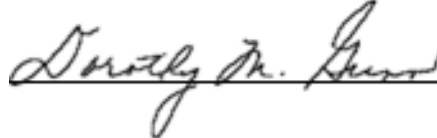
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. The Board dismisses the alleged violation of Sections 21(p)(1) and (p)(7) of the Act. 415 ILCS 5/21(p)(1),(7) (2002).
6. S.K. Service's petition for review filed on July 25, 2002, is dismissed.
7. S.K. Service must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 et seq. (2002)), and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
8. The Agency will not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil action.

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) (2002); *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 May 15, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in black ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board