

ILLINOIS POLLUTION CONTROL BOARD  
January 21, 2021

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, ) AC 18-10  
 ) (IEPA No. 32-18-AC)  
v. ) (Administrative Citation)  
 )  
DG PARTNERS, LLC, an Illinois )  
limited liability company, )  
 )  
Respondent.

ORDER OF THE BOARD (by J. Van Wie):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. On March 19, 2018, the Illinois Environmental Protection Agency (Agency) filed an administrative citation against DG Partners, LLC (DG Partners or respondent), as well as Cissell-Mueller Construction, Inc, and Clifford M. Koltzenburg and Chris S. Koltzenburg, individually, doing business as “K&N Excavating.”<sup>1</sup> See 415 ILCS 5/31.1 (2018); 35 Ill. Adm. Code 108. The Agency alleged that on January 25, 2018, respondents violated Sections 21(p)(1), (p)(3), (p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7), 55(k)(1) (2018)) by: (1) causing or allowing the open dumping of waste in a manner that resulted in litter, open burning, and the deposition of general construction or demolition debris; and (2) causing or allowing water to accumulate in used or waste tires. The violations allegedly took place at the respondent’s property located southwest of the intersection of North County Road 1700 and East County Road 650 in Carthage, Hancock County. The property is commonly known to the Agency as the “Clifford/Christopher Koltzenburg” site and is designated with Site Code No. 0678020001.

On April 25, 2018, DG Partners timely filed a petition to contest the administrative citation, which the Board accepted on May 10, 2018. On December 15, 2020, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review.” Under its terms, DG Partners admits that it caused or allowed open dumping resulting in litter and open burning, a violation of 415 ILCS 5/21(p)(1) and (3) (2018), and agrees to pay the statutory civil penalty of \$3,000.00 pursuant to 415 ILCS 5/42(b)(4-5) (2018). Stipulation at 2. Respondent also agrees to the dismissal of its petition contesting the administrative citation. *Id.* at 3. In addition, the Agency agrees not to refer to the violations that are 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.* at 3.

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2018)), the Board therefore finds that respondent violated Sections 21(p)(1), and (p)(3) of the Act (415 ILCS 5/21(p)(1) and (p)(3) (2018)). Section 42(b)(4-5) of the

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<sup>1</sup> On May 10, 2018, the Board dismissed the administration citation as to Cissell-Mueller Construction, Clifford M. Koltzenburg, and Chris S. Koltzenburg for failure to serve the citation on these respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2018).

Act (415 ILCS 5/42(b)(4-5) (2018)) establishes a civil penalty of \$1,500 for each violation. The Board accordingly assesses a civil penalty of \$3,000. To effectuate the parties' intent that respondent pay a total civil penalty of \$3,000, the Board dismisses the alleged violations of Sections 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(7) and 55(k)(1)(2018)).

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 find that respondent violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(3) (2018)).
3. Respondent must pay a civil penalty of \$3,000 no later than February 22, 2021 which is the first business day following the 30th day after the date of this order. Respondent must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and respondent's federal employer identification number must appear on the face of the certified check or money order.
4. Respondent 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) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
6. The Board dismisses the alleged violations of Sections 21(p)(7) and 55(k)(1) of the Act (415 ILCS 5/21(p)(7) and 55(k)(1) (2018)) and 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) (2018); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

**Names and Addresses for Receiving Service of  
Any Petition for Review Filed with the Appellate Court**

<b>Parties</b>	<b>Board</b>
Illinois Environmental Protection Agency Attn: Michelle M. Ryan 1021 North Grand Avenue East Springfield, IL 62702-4059	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Summers Compton Wells, L.L.C. Attn: Caitlin L. Stayduhar 8909 Ladue Road St. Louis, MO 63124	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 21, 2021, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board