

ILLINOIS POLLUTION CONTROL BOARD
May 6, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-16
)	(IEPA No. 504-03-AC)
JAMES FARLEY,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On September 25, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against James Farley. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that James Farley violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2002)). The Agency further alleges that James Farley violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter at the northwest corner of Matheny and Wolfe Streets, Springfield, Sangamon County.

As required, the Agency served the administrative citation on James Farley within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On October 16, 2003, James Farley timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). James Farley alleges that he did not cause the land pollution, that he took steps to correct the situation, and that although he is purchasing the property but does not operate a business at the site. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated November 6, 2003.

On April 15, 2004, the Agency and James Farley filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). The Board accepts the stipulation and proposed settlement agreement. James Farley admits the alleged violation and agrees to pay a civil penalty of \$1,500. To effect the parties’ agreement, the Board dismisses the petition for review, finds that James Farley has violated the Act as alleged, and directs James Farley to pay a civil penalty in the amount of \$1,500 in three installments and cease and desist from further violation of the Act and implementing regulations.

This opinion constitutes the Board’s findings of fact and conclusions of law.

ORDER

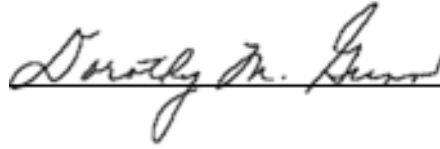
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the petition for review of the administrative citation for violation of 21(p)(1) of the Act is dismissed. The Board finds that James Farley violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 in three monthly installments of \$500 each to be paid no later than on the 30th day of each of April, May, and June 2004.
3. James Farley must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and James Farley's social security number or federal employer identification number must be included on the certified check or money order.
4. James Farley must send the certified check or money order and the remittance form to the following person at the indicated address:

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) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. Payment of this penalty does not prevent future prosecution if the violations continue.

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 6, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board