

ILLINOIS POLLUTION CONTROL BOARD

September 2, 2004

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 04-43
)	(Administrative Citation)
FRANK STONEMARK,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On January 29, 2004, the County of Jackson (County) timely filed an administrative citation against Frank Stonemark. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County alleges that Frank Stonemark violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21 (p)(1) and (7) (2002)). The County further alleges that Frank Stonemark violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and deposition of general construction or demolition debris or clean construction or demolition debris at the site know as "Pomona/Frank Stonemark-Section 15" in Jackson County.

On March 1, 2004, the Board received a motion for extension of time to file an appeal. On March 4, 2004, the Board issued an order noting that the Board could not grant the extension of time. However, the Board accepted the motion as a petition for review and found that the petition was insufficient. The Board allowed respondent until March 31, 2004, to file an amended petition. On April 1, 2004, the Board received the amended petition, which was timely filed pursuant to 35 Ill. Adm. Code 108.300(b)(2). The Board accepted the amended petition for hearing on May 6, 2004.

On August 30, 2004, the parties filed stipulation of settlement and dismissal of petition for review. The parties agree that the waste has been removed and the waste was disposed of in a proper manner. Pursuant to the stipulation, Frank Stonemark admits that he caused or allowed open dumping resulting in litter and agrees to pay a statutory penalty of \$1,500. Frank Stonemark further agrees to withdraw his petition for review.

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 Frank Stonemark violated Section 21(p)(1) of the Act (415 ILCS 5/21 (p)(1) (2002)). To effectuate the intent of the parties, the Board further dismisses the administrative citation alleging violation of Section 21(p)(7) of the Act (415 ILCS 5/21 (p)(7) (2002)). Under Section 42(b)(4-5), the civil penalty for violating Section 21(p) is \$1,500 for a first offense. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$1,500.

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

ORDER

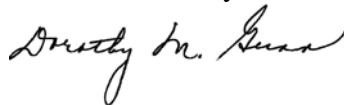
1. Frank Stonemark must pay a civil penalty of \$1,500 by October 4, 2004, which is the 30th day after the date of this order.
2. Frank Stonemark must pay the civil penalty by certified check or money order, made payable to Jackson County Treasurer. The case number, case name, and Frank Stonemark's social security number or federal employer identification number must be included on the certified check or money order.
3. Frank Stonemark must send the certified check or money order to:

Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois 62966
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Frank Stonemark shall cease and desist from further violation of the Environmental Protection Act (415 ILCS 5/1 *et. seq.* (2002)) and Board regulations.

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 5/31(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 September 2, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board