

ILLINOIS POLLUTION CONTROL BOARD

July 8, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 03-21
	)	(IEPA No. 112-03-AC)
JOHN SMITH and TWILLA WILLIAMS	)	(Administrative Citation)
SMITH,	)	
	)	
Respondents.	)	

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

On March 5, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against John Smith and Twilla Williams Smith (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that the respondents violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)) (Act). The Agency further alleges that the respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter and (2) deposition of general construction or demolition debris or clean construction or demolition debris at 201 Grand, Anna, Union County.

As required, the Agency served the administrative citation on the respondents 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 April 3, 2003, the respondents timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). The respondents alleged that the violation had not existed for some time and that it was caused by uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated April 17, 2003.

On July 1, 2004, the Agency and the respondents filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). The respondents admit the alleged violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)) and agree to pay a civil penalty of \$1,500 as to that violation. Under the settlement agreement, the respondents are to pay the penalty amount in six monthly installments of \$250 each beginning August 1, 2004.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ intent that the respondents pay only a \$1,500 civil penalty, the Board dismisses the alleged violation of Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2002)), as well as the petition for review, and directs the respondents to pay a civil penalty in the amount of \$1,500 and to cease and desist from further violation of the Act and Board regulations.

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

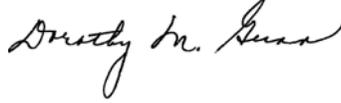
**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that the respondents violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 in six monthly installments of \$250 each beginning no later than August 1, 2004.
3. Pursuant to the stipulated agreement, the petition for review filed April 3, 2003 by the respondents is dismissed. The alleged violation of Section 21(p)(7) of the Act is dismissed.
4. The respondents must pay each installment of the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and the respondents' social security numbers or federal employer identification number must be included on the certified check or money order.
5. The respondents 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
6. 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)).
7. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 8, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board