

ILLINOIS POLLUTION CONTROL BOARD

July 8, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 03-33
)	(IEPA No. 331-03-AC)
OLEN G. PARKHILL, JR.,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

Today the Board accepts a proposed settlement and dismissal of this administrative citation enforcement action. By way of background, complainant, the Illinois Environmental Protection Agency (Agency), timely filed an administrative citation against respondent, Olen G. Parkhill, Jr., on June 12, 2003. The Agency alleged that Mr. Parkhill violated Sections 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)) by causing or allowing the open dumping of waste resulting in litter, open burning, and the deposition of general or clean construction debris. The violations allegedly took place at Mr. Parkhill's facility located approximately 100 yards east of the east end of Jefferson Road, Candlewood Estates Mobile Home Park, Mahomet, Champaign County. The Agency site code number for the facility is 0198125003.

Mr. Parkhill timely filed a petition to contest the administrative citation, which the Board accepted on July 10, 2003. On June 21, 2004, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, Mr. Parkhill admits he violated Section 21(p)(1) of the Act by causing or allowing the open dumping of waste resulting in litter and agrees to pay the statutory civil penalty of \$3,000 for this "second or subsequent offense." Stipulation at 2. Mr. Parkhill also agrees to the dismissal of his petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citation has been removed from the site and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a criminal or civil action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2002)), the Board therefore finds that Mr. Parkhill violated Section 21(p)(1) of the Act. Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2002)) establishes a civil penalty of \$1,500 for this violation, but the penalty increases to \$3,000 if the violation is a "second or subsequent adjudicated violation of that provision." The Board has previously found that Mr. Parkhill violated Section 21(p)(1) in a separate administrative citation proceeding. *See IEPA v. Parkhill*, AC 00-87 (Oct. 5, 2000). The Board accordingly assesses a civil penalty of

\$3,000. To effectuate the parties' intent that Mr. Parkhill pay a total civil penalty of \$3,000, the Board dismisses the alleged violation of Sections 21(p)(3) and (p)(7) of the Act.

This opinion constitutes the Board's finding 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 Mr. Parkhill violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2002)) by causing or allowing the open dumping of waste resulting in litter, and that this is Mr. Parkhill's second or subsequent adjudicated violation of that provision.
3. Mr. Parkhill must pay a total civil penalty of \$3,000. Mr. Parkhill must pay the civil penalty in three monthly installments of \$1,000, the first installment being due on July 31, 2004, and continuing the last of each month thereafter until paid in full. Each installment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Parkhill's federal employer identification number or social security number must be included on each certified check or money order.
4. Mr. Parkhill must send each certified check or money order to:

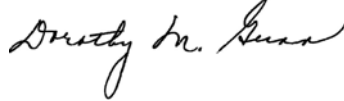
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. The Board dismisses the alleged violations of Sections 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3), (p)(7) (2002)) and Mr. Parkhill'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) (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 July 8, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board