

ILLINOIS POLLUTION CONTROL BOARD

February 17, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-19
)	(IEPA No. 359-04-AC)
)	(Administrative Citation)
DAVID and SHELBY HILL and N.E. FINCH)	
CO.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On August 26, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against David and Shelby Hill and N.E. Finch Co. (respondents). See 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on June 29, 2004, the respondents violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002). 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 litter, open burning, and deposition of general construction or demolition debris or clean construction or demolition debris at St. David, Fulton County.

On September 24, 2004, David and Shelby Hill timely filed a petition to contest the administrative citation. N.E. Finch Co. filed a separate petition the same day. The Board accepted the petitions for hearing on October 7, 2004.

On February 1, 2005, the parties filed a stipulation of settlement and dismissal of respondent’s petition for review. Pursuant to the terms of the stipulation and proposal for settlement, the respondents admit they caused or allowed open dumping resulting in litter, and agree to pay a civil penalty of \$1,500.

The parties agree that the waste located at the site that was the subject of the administrative citation has been removed and properly disposed.

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 respondents have violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2002). Under Section 42(b)(4-5), the statutory established penalty is \$1,500 for a first-time violation. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties’ intent that the respondents pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Section 21(p) (3) and (7).

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

ORDER

Pursuant to the stipulated agreement, the Board finds that David and Shelby Hill and N.E. Finch Co. (respondents) violated Section 21(p) (1) of the Act. 415 ILCS 5/21(p)(1) (2002).

1. The respondents must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
2. The respondents must pay the civil penalty on or before March 21, 2005, the 30th day following the date of this order. The payment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. The respondents must send the certified check or money order and the remittance form to:

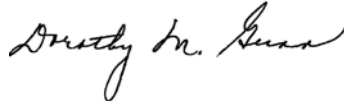
Illinois Environmental Protection Agency Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (Act) (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. The Board dismisses the alleged violation of Sections 21(p) (3) and (7) of the Act. 415 ILCS 5/21(p)(3),(7) (2002).
6. The respondents' petitions for review, both filed on September 24, 2004, are dismissed.
7. The respondents must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 *et seq.* (2002)), and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
8. The Agency will not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil action.

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, hereby certify that the Board adopted the above opinion and order on February 17, 2005, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board