

ILLINOIS POLLUTION CONTROL BOARD
June 2, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 03-5
)	(IEPA No. 312-02-AC)
LOXLEY, INC.,)	(Administrative Citation)
)	
Respondent.)	

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

On August 1, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Loxley, Inc. (Loxley). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on May 29, 2002, Loxley violated Section 21(p)(1), (p)(3), (p)(4), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(4), and (p)(7) (2002)). The Agency further alleged that Loxley violated these provisions by causing or allowing the open dumping of waste in a manner resulting in (1) litter; (2) open burning; (3) deposition of waste in standing or flowing waters; and (4) deposition of construction or demolition debris at a facility located on the east side of the southern end of Oak Grove Court in Beardstown, Cass County.

As required, the Agency served the administrative citation on Loxley 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 September 3, 2002, Loxley timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Loxley alleged that (1) it did not cause or allow the alleged violations; (2) it does not own a portion of the property in question; (3) it was not properly served; and (4) the alleged violations were the result of uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated September 19, 2002.

On May 26, 2005, the Agency and Loxley filed a stipulation and proposed settlement and dismissal of respondent’s petition for review. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). Loxley admits caused or allowed the open dumping of waste in a manner resulting in litter, in violation of Section 21(p)(1) of the Act, and agrees to pay a civil penalty of \$1,500.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ agreement, the Board directs Loxley to pay a civil penalty in the amount of \$1,500. The Board dismisses the alleged violations of Section 21(p)(3), (p)(4), and (p)(7) of the Act and the September 3, 2002 petition for review.

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

ORDER

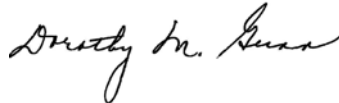
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violations of Section 21(p)(3), (p)(4), and (p)(7) of the Act and the September 3, 2002 petition for review are dismissed. The Board finds that Loxley violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 no later than July 5, 2005, which is the first business day after the 30th day after the date of this order.
3. Loxley must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and Loxley's social security number or federal employer identification number must be included on the certified check or money order.
4. Loxley 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.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 2, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board