

ILLINOIS POLLUTION CONTROL BOARD  
November 4, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	AC 05-4
v.	)	(IEPA No. 307-04-AC)
	)	(Administrative Citation)
G.T. & L., INC.,	)	
	)	
Respondent.	)	

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

This administrative citation was filed on July 13, 2004, by the Illinois Environmental Protection Agency (Agency) against G.T. & L., Inc. (GT & L). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The administrative citation was issued for alleged violations at 22341 Sherman Road, Steger, Cook County on May 14, 2004. Specifically, the alleged violations are that GT & L violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)) 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.

The Agency timely served the administrative citation on GT & L 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 August 16, 2004, GT & L timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b).

On August 19, 2004, the Board accepts this matter as timely filed, pursuant to 35 Ill. Adm. Code 105.404. However, the Board found that the petition was filed on behalf of GT & L by Walter Kuersten. The Board’s procedural rules incorporate the requirement under Section 1 of the Illinois Attorney Act (705 ILCS 205/1 (2002)) and Section 1 of the Corporation Practice of Law Prohibition Act (705 ILCS 220/1 (2002)), that anyone other than an individual “must appear through an attorney-at-law licensed and registered to practice law.” 35 Ill. Adm. Code 101.400(a)(2). The appeal filed by Walter Kuersten on behalf of GT & L does not identify him as an attorney, but as the Vice President of GT & L. Walter Kuersten cannot represent GT & L in this proceeding, unless he is an attorney and nothing in the petition indicates that Walter Kuersten is an attorney. Therefore the Board directed GT & L to retain an attorney and to file an amended petition accompanied by an attorney’s appearance within 30 days of the date of August 19, 2004, or the this petition would be dismissed.

As of the date of this order, the Board has not received an amended petition filed by GT & L. Therefore, the petition for review is dismissed and the Board will enter an order finding

GT & L in violation of Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2002)).

The civil penalty for violating Section 21(p) Act (415 ILCS 5/21(p) (2002)) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)[(4) or (4-5)] (2000); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) Act (415 ILCS 5/21(p) (2002)) and these violations are the first offense the total civil penalty is \$3,000. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

### **ORDER**

1. G.T. & L., Inc. must pay a civil penalty of \$3,000 no later than November 22, 2004, which is the 30th day after the date of this order.
2. G.T. & L., Inc. must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and G.T. & L., Inc.'s social security number or federal employer identification number must be included on the certified check or money order.
3. G.T. & L., Inc. 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

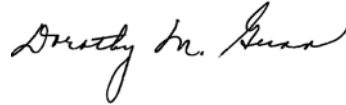
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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 November 4, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board