

ILLINOIS POLLUTION CONTROL BOARD

May 2, 2002

COUNTY OF SANGAMON,)	
)	
Complainant,)	
)	
v.)	AC 02-46
)	(County No. SCDPH 02-AC-1)
KEVIN BIGGS,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On March 20, 2002, the County of Sangamon (County) timely filed an administrative citation against Kevin Biggs (Biggs). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The County alleges that Biggs violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(7) (2000)). The County further alleges that Biggs violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter and deposition of construction or demolition debris at a facility located at 2241 Groth, Springfield, Sangamon County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the County served the administrative citation on Biggs within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406.

On April 29, 2002, the parties filed a stipulation and proposal for settlement. The parties agree that Biggs shall pay a civil penalty of \$1,500. The Board accepts the stipulation and proposed settlement. To effectuate the parties’ intent that Biggs pay a total penalty of only \$1,500, the alleged violation of Section 21(p)(7) of the Act is dismissed.

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.

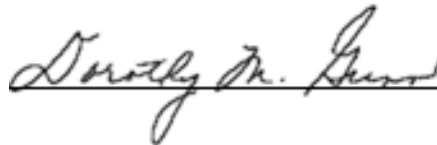
2. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(7) of the Act is dismissed. The Board finds that Kevin Biggs (Biggs) violated Section 21(p)(1) of the Act, and must pay a civil penalty of \$1,500 no later than June 2, 2002, which is the 30th day after the date of this order.
3. Biggs must pay the civil penalty by certified check or money order, made payable to the Sangamon County Department of Public Health. The number, case name, and Biggs's social security number or federal employer identification number must be included on the certified check or money order.
4. Biggs must send the certified check or money order and the remittance form to:

Sheri L. Carey
Sangamon County Department of Public Health
2501 North Dirksen Parkway
Springfield, Illinois 62702
5. 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)).
6. 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) (2000); *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 May 2, 2002, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board