

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2005

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,)	
)	
Complainant,)	
)	
v.)	AC 04-79
)	(CDOE No. 04-09-AC)
NATIONAL MATERIAL LIMITED PARTNERSHIP,)	(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 City of Chicago Department of Environment (CDOE), timely filed an administrative citation against respondent, National Material Limited Partnership (NMLP), on May 18, 2004. CDOE alleged that NMLP violated Sections 21(p)(4) and (p)(6) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(4), (p)(6) (2004)) by causing or allowing the open dumping of waste resulting in (1) the deposition of waste in standing or flowing waters; and (2) standing or flowing liquid discharge from the dump site at 12950 South Stony Island Avenue, in Chicago, Cook County.

NMLP timely filed a petition to contest the administrative citation, which the Board accepted on July 8, 2004. On June 22, 2005, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review.” Under the proposed settlement, NMLP admits that it violated Section 21(p)(4) of the Act by causing or allowing open dumping resulting in the deposition of waste in standing or flowing waters, and agrees to pay the civil penalty of \$1,500. Stip. at 2. CDOE agrees to the dismissal of its administrative citation with respect to the alleged violation of Section 21(p)(6) of the Act. *Id.* Further, upon the Board’s acceptance of the stipulation and proposed settlement, NMLP agrees to the dismissal of its petition to contest the administrative citation. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2004)), the Board therefore finds that NMLP violated Section 21(p)(4) of the Act. Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2004)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. The Board also dismisses NMLP’s petition and CDOE’s alleged violation of Section 21(p)(6) of the Act.

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

ORDER

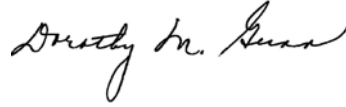
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that NMLP violated Section 21(p)(4) of the Act (415 ILCS 5/21(p)(4) (2004)) by causing or allowing the open dumping of waste resulting in the deposition of waste in standing or flowing waters.
3. NMLP must pay a total civil penalty of \$1,500 by August 8, 2005, which is the first business day following the 30th day after the date of this order. Payment must be made by certified check or money order, made payable to the City of Chicago. The case number, case name, and NMLP's federal employer identification number or social security number must be included on the certified check or money order.
4. NMLP must send the certified check or money order to:

City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, Illinois 60602
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. The Board dismisses the alleged violation of Section 21(p)(6) of the Act (415 ILCS 5/21(p)(6) (2004)) and NMLP'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) (2004); *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 7, 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