

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-51
)	(IEPA No. 94-02-AC)
GERALD GOINES,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On April 2, 2002, the Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Gerald Goines. *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Goines violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. The Agency further alleges that Mr. Goines violated these provisions by allowing open dumping resulting in litter, open burning, and the deposition of construction or demolition debris at 780 Crescent Loop, Vienna, Johnson County. The administrative citation is based on an inspection done on February 4, 2002, by Sheila Williams, an Environmental Protection Specialist for the Agency's Marion Regional Office.

As required, the Agency served the administrative citation on Mr. Goines 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 May 6, 2002, Mr. Goines timely filed a petition for review. *See* 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). On October 21, 2002, the Agency and Mr. Goines filed a stipulation and proposed settlement, accompanied by a request for relief from Mr. Goines' petition for review. Pursuant to the terms of the proposed settlement, Mr. Goines admits the violation of Section 21(p)(1) of the Act, agrees to pay a \$1,500 civil penalty, and agrees to dismissal of his petition for review. The Board accepts the stipulation and proposed settlement. To effectuate the parties' intent that Mr. Goines pay a total penalty of \$1,500, the Board dismisses the alleged violations of Section 21(p)(3) and Section 21(p)(7) of the Act. The stipulation states that Mr. Goines must pay the civil penalty by October 10, 2002. Since that date has passed, the Board will order Mr. Goines to pay the civil penalty by December 7, 2002, or 30 days from the date of this order.

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

ORDER

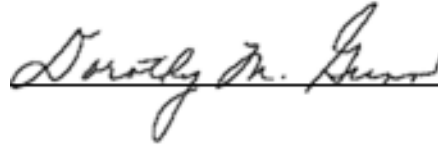
1. The Board accepts and incorporates by reference the stipulation and proposed settlement. The Board dismisses the petition for review.
2. Pursuant to the stipulated agreement, the Board finds Mr. Goines caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. The Board dismisses the alleged violations of Section 21(p)(3) and Section 21(p)(7).
2. Mr. Goines must pay a civil penalty of \$1,500, pursuant to 415 ILCS 5/42(b)(4-5) (2000), no later than December 7, 2002, which is the 30th day after the date of this order. Mr. Goines must pay the civil penalty by certified check or money order, payable to Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Goines's social security number or federal employer identification number must be included on the certified check or money order.
3. Mr. Goines must send the certified check or money order 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 violation continues.

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 November 7, 2002, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board