

ILLINOIS POLLUTION CONTROL BOARD
January 20, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-5
)	(IEPA No. 314-04-AC)
ROBERT and PHYLLIS ULRICH, and BOB)	(Administrative Citation)
ULRICH PALLET, INC.,)	
)	
Respondents.)	

ORDER OF THE BOARD (by T.E. Johnson):

On July 19, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert and Phyllis Ulrich and Bob Ulrich Pallet, Inc. (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that respondents violated Sections 21(p)(1) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) (2002). The Agency further alleges that respondents violated this provision of the Act by causing or allowing the open dumping of waste resulting in litter at a facility located at 5913 West St. Anthony Road, Quincy in Adams County (site).

On August 17, 2004, the respondents filed a petition to review the administrative citation. The Board accepted the respondents' petition to contest the administrative citation on September 2, 2004.

On January 13, 2005, the parties filed a stipulation of settlement and dismissal of respondents' petition for review. Pursuant to the terms of the stipulation and proposal for settlement, the respondents do not admit that they caused or allowed open dumping resulting in litter, but agree to pay a civil penalty of \$1,500.

The parties agree that the waste at the site that was the subject of this administrative citation has been removed and properly disposed.

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2002)), the Board finds that the respondents have violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2002). Under Section 42(b)(4-5), the statutory established penalty is \$1,500 for a first-time violation. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$1,500. The parties' stipulation and proposal for settlement provides that the respondents will pay the penalty within 30 days of the date of the Board's final order in this case.

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

ORDER

Pursuant to the stipulated agreement, the Board finds that Robert and Phylis Ulrich and Bob Ulrich Pallet, Inc. (respondents) violated Section 21(p) (1) of the Act. 415 ILCS 5/21(p)(1) (2002).

1. The respondents must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2002).
2. The respondents must pay the civil penalty on or before February 21, 2005, the first business day 30 days after the date of this order. The civil penalty must be paid by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' federal employer identification number and social security numbers must be included on the certified check or money order.
3. The respondents must send the certified check or money order and the remittance form to:

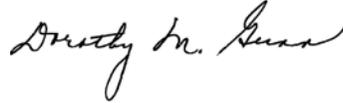
Illinois Environmental Protection Agency Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2002).
5. The respondents' petition for review filed on August 17, 2004, is dismissed.
6. The respondents must diligently comply with, and cease and desist from further violations of, the Act (415 ILCS 5/1 *et seq.* (2002)), and the Board's rules and regulations. 35 Ill. Adm. Code Subtitles A through H.
7. The Agency will not refer the violations that are the subject of this administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a criminal or civil action.

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, hereby certify that the Board adopted the above opinion and order on January 20, 2005, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board