

ILLINOIS POLLUTION CONTROL BOARD
February 3, 2005

COUNTY OF VERMILION,)	
)	
Complainant,)	
)	
v.)	AC 04-22
)	(Vermilion County No. 03-03)
VILLAGE OF TILTON,)	(Administrative Citation)
)	
Respondent.)	
)	

JENNIFER RIGGS APPEARED ON BEHALF OF THE VERMILION COUNTY STATE'S ATTORNEY'S OFFICE; and

JOHN F. MARTIN OF MEACHUM & MARTIN LAW OFFICES APPEARED ON BEHALF OF THE VILLAGE OF TILTON.

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

Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order. On December 16, 2004, the Board issued an interim opinion and order, finding that respondent Village of Tilton (Village) violated Sections 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(3) (2002)) at First Avenue and 15th Street, Tilton, Vermilion County. The Board held that the Village violated the Act by causing or allowing the open dumping of waste in a manner that resulted in open burning of waste. The violation was alleged in an administrative citation issued by the County of Vermilion (County)

In its December 16, 2004 decision, the Board held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2002)), Greer had committed one first-time violation of Section 21, and is subject to the statutorily fixed civil penalty of \$1,500. In addition, the Board held that the Village, by unsuccessfully contesting the administrative citation at hearing, must pay the hearing costs of the County and the Board. The hearing in this case was held on August 27, 2004, at the Vermilion County Courthouse Annex in Danville.

Because no information on hearing costs was in the record, the Board directed the County and the Clerk of the Board each to file documentation of the respective hearing costs, supported by affidavit, and to serve the filing on the Village. The Board also gave the Village an opportunity to respond to the requests for hearing costs and noted that after the time periods for these filings had run, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On December 17, 2004, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$330.50, the entirety of which reflects the costs of court reporting. The

Clerk served this documentation on the Village. The deadline for the County to file its cost documentation was December 30, 2004. To date, the County has not filed documentation of hearing costs. The Village did not respond to the Clerk's affidavit.

The Board finds the hearing costs of the Board reasonable and below orders the Village to pay those costs under Section 42(b)(4-5) of the Act. The Board incorporates by reference the findings of fact and conclusions of law from its December 16, 2004 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2002)), the Board attaches the administrative citation and makes it part of the Board's final order. This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board finds that the Village of Tilton (Village) violated Sections 21(p)(3) of the Act. 415 ILCS 5/21(p)(3) (2002).
2. The Board assesses the statutory civil penalty of \$1,500 for the violations as well as hearing costs totaling \$330.50, for a total amount due of \$1,830.50. The Village must pay \$1,830.50 no later than March 21, 2005, which is the first business day following the 45th day after the date of this order. The Village must pay this amount by certified check or money order, made payable to the County of Vermilion. The case number, case name, and the Village's federal employer identification number must be included on the certified check or money order. The remittance form in the administrative citation must be included with the payment.
3. The Village must send the certified check or money order to:

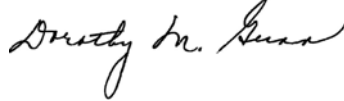
Vermilion County Health Department
200 South College Street
Danville, Illinois 61832
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. 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) (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 February 3, 2005, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board