

*ILLINOIS POLLUTION CONTROL BOARD
October 21, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-32
)	(IEPA No. 759-03-AC)
ROSEMARY PEHM,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On December 29, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Rosemary Pehm. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on November 26, 2003 Rosemary Pehm violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The Agency further alleges that Rosemary Pehm violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) open burning; and (3) deposition of general construction or demolition debris or clean construction or demolition debris at three miles south of the junction of Routes 18 and 29 in Henry, Marshall County.

As required, the Agency served the administrative citation on Rosemary Pehm within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On January 28, 2004, Rosemary Pehm timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Rosemary Pehm alleged that she did not cause the violations to occur and that the violations resulted from uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated February 5, 2004.

On October 12, 2004, the Agency and Rosemary Pehm filed a stipulation and proposed settlement. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). Rosemary Pehm admits only the alleged open burning violation of Section 21(p)(3). She agrees to dismiss her petition for review and to pay a civil penalty of \$1,500 in installments.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ agreement, the Board dismisses the alleged violations of Sections (p)(1) and (p)(7). The Board directs Rosemary Pehm to pay a civil penalty in the amount of \$1,500 and diligently comply with and cease and desist from further violation of the Act.

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

ORDER

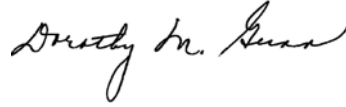
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the January 28, 2004 petition for review of the administrative citation and the violations of Sections 21(p)(1) and (p)(7) of the Act are dismissed. The Board finds that Rosemary Pehm violated Sections 21(p)(3) of the Act, and must pay a civil penalty of \$1,500 in 15 monthly installments of \$100 each beginning on November 1, 2004 and continuing on the first day of each month thereafter until the entire amount is paid.
3. Rosemary Pehm must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and Rosemary Pehm's social security number or federal employer identification number must be included on the certified check or money order.
4. Rosemary Pehm must send the certified check or money order and the remittance form to the following person at the indicated address:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. 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)).
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) (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 October 21, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board