

ILLINOIS POLLUTION CONTROL BOARD

February 17, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	AC 04-31
v.)	(IEPA No. 747-03-AC)
)	(Administrative Citation)
EQUIPPING THE SAINTS MINISTRY,)	
INTERNATIONAL, INC.,)	
)	
Respondent.)	

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

On January 9, 2004, the Illinois Environmental Protection Agency (Agency) filed a timely administrative citation against Equipping the Saints Ministry, International, Inc. (ESMI). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that ESMI violated Section 21(p)(1), (2), and (7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (2), and (7) (2002)). The Agency further alleges that ESMI violated these provisions by causing or allowing the unpermitted open dumping of waste in a manner that resulted in litter, and the deposition of general and/or clean construction or demolition debris. ESM's facility is located at 402 W. Loud Street, Virden, Macoupin County.

As required, the Agency served the administrative citation on ESMI 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). 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) (2002); 35 Ill. Adm. Code 108.204(b), 108.406.

On February 13, 2004, ESMI timely filed a petition for review. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). On February 1, 2005, the Agency and ESMI filed a stipulation and proposed settlement, accompanied by a request for dismissal of the respondent's petition for review. Pursuant to the terms of the proposed settlement, ESMI denies the alleged violations of Section 21(p)(1) of the Act, and agrees to pay a \$1,500 civil penalty. To effectuate the parties' intent that ESMI pay a total penalty of only \$1,500, the Board dismisses the alleged violations of Section 21(p)(2) and 21(p)(7) of the Act. The stipulation of settlement requires ESMI to pay the first monthly installment of the civil penalty by February 1, 2005. Because that date precedes the date of this order, the Board will require the first payment due on or before March 1, 2005. The Board accepts the stipulation and proposed settlement.

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 Board dismisses ESMI's petition for review filed February 13, 2004, as supplemented by the Objection to Motion for Default Judgment.
3. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(2) and (7) is dismissed. The Board finds that ESMI violated Section 21(p)(2) and (7) of the Act, and must pay a civil penalty of \$1,500, in monthly installments of \$250, beginning on March 1, 2005, and continuing on the first of each month until paid in full.
4. ESMI must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and ESMI's social security number or federal employer identification number must be included on the certified checks or money orders.
5. ESMI must send the certified checks or money orders to:

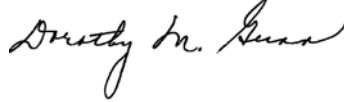
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
7. 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 17, 2005, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board