

ILLINOIS POLLUTION CONTROL BOARD
November 4, 2004

COUNTY OF SANGAMON,)	
)	
Complainant,)	
)	
v.)	AC 05-22
)	(SCDPH No. 04-AC-2)
JAMES WITHERS,)	(Administrative Citation)
)	
Respondent.)	

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

On September 7, 2004, the County of Sangamon timely filed an administrative citation against James Withers. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Sangamon alleged that James Withers violated Section 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(7) (2002)). The County of Sangamon further alleges that on August 18, 2004, James Withers violated this provision by causing or allowing the open dumping of waste in a manner that resulted deposition of general construction or demolition debris or clean construction or demolition debris at 3300 Ridgewood, Springfield, Sangamon County.

On October 22, 2004, the Board received a letter from the County noting that Mr. Withers had “admitted guilt” and paid a \$1,500 penalty. Accordingly, the Board finds that James Withers violated Section 21(p)(7) of the Act as alleged.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and this violation is a first offense, the total civil penalty is \$1,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

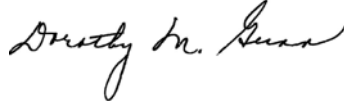
1. James Withers must pay a civil penalty of \$1,500 for one violation of Section 27 (p)(7) of the Act.
2. By letter of October 22, 2004, the County of Sangamon stated that James Withers has already paid this \$1,500 penalty, and so no further payment is due concerning the August 18, 2004 violation.

3. 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 November 4, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board