

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	AC 04-41
v.)	(IEPA No. 15-04-AC)
)	(Administrative Citation)
CHERYL CLAYTON,)	
)	
Respondent.)	

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

On January 28, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ms. Cheryl Clayton. The Agency alleges that Ms. Clayton violated Section 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2002)). The Agency further alleges that Ms. Clayton violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter at 766 North 550th Avenue, Quincy, Adams County. The Agency commonly refers to the facility as the Marblehead/Clayton site.

The Board treated Ms. Clayton's letter received March 1, 2004 as a timely filed petition to contest the administrative citation. The Board accepted the petition for hearing on March 4, 2004.

On October 1, 2004, the parties filed a stipulation of settlement and dismissal of respondent's petition for review. Pursuant to the terms of the stipulation and proposal for settlement, Ms. Clayton admits liability for the violation alleged in the administrative citation, and agrees to pay a penalty of \$1,500 for the violation of Section 21(p)(1). 415 ILCS 5/21(p)(1) (2002).

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 Ms. Clayton has 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 and \$3,000 for a second or subsequent violation of the same provision. 415 ILCS 5/42(b)(4-5) (2002). The Board accordingly assesses a civil penalty of \$1,500. The Board notes that the parties' stipulation and proposal for settlement provides that Ms. Clayton will pay the penalty in twelve monthly installments of \$125 commencing on September 30, 2004. As that is prior to the date of this order, the Board will grant Ms. Clayton until October 21, 2004, to pay the first installment.

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

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Ms. Clayton caused or allowed open dumping resulting in litter, a violation of 415 ILCS 5/21(p)(1) (2002).
3. Ms. Clayton must pay a civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2002). Ms. Clayton must pay the civil penalty in twelve monthly installments of \$125, the first being due on October 21, 2004; and continuing on the twenty-first of each month until paid. Each installment must be made by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Ms. Clayton's federal employer identification number (if applicable) must be included on the certified check or money order.
4. Ms. Clayton must send the certified check or money order to:

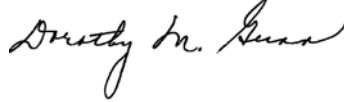
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. The Board dismisses Ms. Clayton's petition for review filed on March 1, 2004.
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, certify that the Board adopted the above opinion and order on October 7, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board