

ILLINOIS POLLUTION CONTROL BOARD  
August 18, 2005

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-6
	)	(IEPA No. 391-03-AC)
MARY LOU and H. FRANK RECORD,	)	(Administrative Citation)
	)	
Respondents.	)	

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

On August 15, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mary Lou and H. Frank Record (Records). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on June 19, 2003, the Records violated Section 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) (2004)). The Agency further alleges that the Records 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 31011 North County Highway 2, Ellisville, Fulton County.

As required, the Agency served the administrative citation on the Records within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On September 15, 2003, the Records timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). The Records alleged that the Agency improperly issued the administrative citation because the Records did not cause or allow the open dumping of waste. *See* 35 Ill. Adm. Code 108.206. The Board accepted the petition for hearing by an order dated September 18, 2003.

On August 3, 2005, the Agency and the Records filed a stipulation and proposed settlement and dismissal of respondent’s petition for review. *See* 35 Ill. Adm. Code 108.208 and 108.500(c). The Records admit the alleged violations of Section 21(p)(1) and (p)(3) of the Act and agree to pay a civil penalty of \$3,000. The stipulation does not address the alleged violation of Section 21(p)(7) of the Act.

The Board accepts the stipulation and proposed settlement agreement. To effectuate the parties’ agreement, the Board dismisses the alleged violation of Section 21(p)(7) of the Act. For the two admitted violations of Section 21(p)(1) and (p)(3) of the Act, the Board directs the Records to pay a civil penalty in the amount of \$3,000. The Board further dismisses the September 15, 2003 petition for review.

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

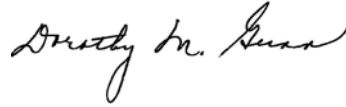
**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Pursuant to the stipulated agreement, the alleged violation of Section 21(p)(1) and (p)(3) of the Act and the September 15, 2003 petition for review are dismissed. The Board finds that the Records violated Section 21(p)(1) and (p)(3) of the Act, and must pay a civil penalty of \$3,000 no later than September 19, 2005, which is the first business day after the 30th day after the date of this order.
3. To effectuate the apparent intent of the parties, the alleged violation of Section 21(p)(7) of the Act is dismissed, although the stipulation and settlement agreement is silent as to the disposition of that alleged violation.
4. The Records must pay the civil penalty by certified check or money order, made payable to the Environmental Protection Trust Fund. The number, case name, and the Records' social security numbers must be included on the certified check or money order.
5. The Records 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
6. The Records must remove the waste from the site that was the subject of this administrative citation before June 30, 2005.
7. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
8. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 18, 2005, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board