

ILLINOIS POLLUTION CONTROL BOARD

October 6, 2005

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-78
	)	(IEPA No. 238-04-AC)
DANIEL PAULEY,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On May 14, 2004, the Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Daniel Pauley. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Pauley violated Section 21(p)(1), (p)(3), and (p)(4) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(4) (2004)). The Agency further alleges that Mr. Pauley 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 waste in standing or flowing waters at Leibig School Road, Mascoutah, St. Clair County.

On June 23, 2004, Mr. Pauley timely filed a petition to contest the administrative citation. The Board accepted the petition for hearing on July 8, 2004.

On September 16, 2005, 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, Mr. Pauley 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)(3). 415 ILCS 5/21(p)(3) (2004).

The Board accepts the stipulation and proposal for settlement. Pursuant to Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2004)), the Board finds that Mr. Pauley has violated Section 21(p)(3) of the Act. 415 ILCS 5/21(p)(3) (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) (2004). The Board accordingly assesses a civil penalty of \$1,500.

To effectuate the parties' agreement, the Board dismisses the June 23, 2004 petition for review along with the alleged violations of Sections 21(p)(1) and (4) of the Act. 415 ILCS 5/21(p)(1), (4) (2004).

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. Pursuant to the stipulated agreement, the alleged violations of Section 21(p)(1) and (4) of the Act and Mr. Daniel Pauley's June 23, 2004 petition for review are dismissed. The Board finds that Mr. Pauley caused or allowed open dumping resulting in open burning, a violation of 415 ILCS 5/21(p)(3) (2004), and agrees to pay the statutory civil penalty of \$1,500 pursuant to 415 ILCS 5/42(b)(4-5) (2004).
3. Mr. Pauley must pay the civil penalty no later than November 5, 2005, which is 30 days from the date of this order. Mr. Pauley must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Pauley's federal employer identification number (if applicable) must be included on the certified check or money order.
4. Mr. Pauley must send the certified check or money order to:
 

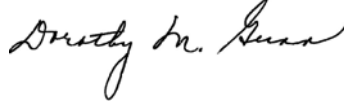
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. 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) (2004); *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 6, 2005, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board