

ILLINOIS POLLUTION CONTROL BOARD
March 16, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-18
)	(IEPA No. 409-04-AC)
WILLIAM SHRUM,)	(Administrative Citation)
)	
Respondent.)	

MICHELLE M. RYAN APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY; and

KEVIN J. BABB APPEARED ON BEHALF OF WILLIAM SHRUM.

INTERIM OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On August 26, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against William Shrum (respondent). The citation alleges that respondent violated sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21 (p)(7) (2004)) at a site located north of the intersection of Shamrock and Corgan Roads approximately three and one-half miles northwest of Tamaroa, Perry County.

For the reasons below, the Board finds that Mr. Shrum violated sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1) and 21(p)(7) (2004)) by causing or allowing the open dumping of waste resulting in litter and the deposition of general construction or demolition debris or clean construction or demolition debris, as alleged in the citation. Because the Board has previously found the respondent in violation of section 21(p)(1), he is subject to a civil penalty of \$3,000 for a second or subsequent violation of that provision. 415 ILCS 5/42(b)(4-5) (2004); *see County of Perry v. William Shrum*, AC 02-1, slip op. at 1 (Sept. 6, 2001). The Board assesses a total statutory penalty of \$4,500 as well as hearing costs as described below.

In this interim opinion, the Board first describes the administrative citation process and the procedural history and facts of this case. The Board then sets forth the pertinent provisions of the Act. Next, the Board analyzes the issues and makes its conclusions of law regarding the alleged violations before addressing the issue of penalties.

ADMINISTRATIVE CITATION PROCESS

Section 31.1 of the Act authorizes the Agency and units of local government to enforce specified provisions of the Act through an administrative citation. 415 ILCS 5/31.1 (2004). Part 108 of the Board's procedural rules provides the process of a citation before the Board. 35 Ill.

Adm. Code 108.100 *et seq.* Unlike other environmental enforcement proceedings in which the Act prescribes a maximum penalty, *see, e.g.*, 415 ILCS 5/42(b)(1) (2004), the Act sets specific penalties for administrative citations. 415 ILCS 5/42(4-5) (2004). In cases such as this, the Board has no authority to consider mitigating or aggravating factors when determining penalty amounts. *Id.* However, “if the Board finds that the person appealing the [administrative] citation has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty.” 415 ILCS 5/31.1(d)(2) (2004).

PROCEDURAL HISTORY

On August 26, 2004, the Agency filed an administrative citation (AC) alleging violations of the Act at a site north of the intersection of Shamrock and Corgan Roads approximately 3 ½ miles northwest of Tamaroa, Perry County. Specifically, the citation alleges that the respondent violated section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)) by causing or allowing the open dumping of waste resulting in litter. AC at 2. The citation further alleges that the respondent violated section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2004)) by causing or allowing the open dumping of waste resulting in deposition of general construction or demolition debris or clean construction or demolition debris. AC at 2.

On September 29, 2004, the respondent filed a petition for administrative review (Pet.). The Board accepted the petition for hearing in an order dated October 7, 2004.

On November 17, 2005, Board Hearing Officer Carol Webb conducted a hearing (Tr.) at the Perry County Courthouse in Pinckneyville. At the hearing, Special Assistant Attorney General Michelle M. Ryan appeared and participated on behalf of the complainant, and Kevin J. Babb appeared and participated on behalf of the respondent. Three witnesses testified during the hearing: Mr. Kent A. Johnson of the Agency on behalf of the complainant and Mr. William Shrum and Mr. Keith Moss on behalf of the respondent. Based on her legal judgment, experience, and observations at hearing, Hearing Officer Webb found that all witnesses testified credibly in this matter. Tr. at 26-27. On November 21, 2005, Special Assistant Attorney General Michelle M. Ryan filed an entry of appearance and a motion to file *instanter*. The Board grants the motion and accepts the entry of appearance.

On December 29, 2005, the complainant filed its post-hearing brief (Pet. Brief). Although his post-hearing brief was due on or before January 26, 2006, the respondent filed it (Resp. Brief) on January 30, 2006. The Board finds that the complainant will not be materially prejudiced by accepting respondent’s brief and accepts it *instanter*.

FACTS

On July 2, 2004, Agency field inspector Kent Johnson inspected a site north of the intersection of Shamrock and Corgan Roads approximately 3 ½ miles northwest of Tamaroa, Perry County. Exh. 2 at 3; *see* Exh. 2 at 5 (site sketch). Paul Clapp of the Perry County Solid Waste Authority accompanied Johnson during this inspection. Exh. 2 at 3.

Mr. Johnson conducted the inspection in response to a complaint of debris and pallet pieces dumped openly there. Exh. 2 at 3; Tr. at 8. Also, Mr. Brian Rodley of the Agency's Office of Pollution Prevention supplied Mr. Johnson with photos of the site taken from off-site in June of 2004. Exh. 1; Tr. at 9. Public records obtained from county offices by Mr. Johnson indicated that the respondent became owner of the site on February 19, 2004. Exh. 2 at 3 (referring to PIN 1-42-0250-041); *see* Tr. at 7, 18. Mr. Johnson also reports that the respondent operates a pallet recycling business at the same Shamrock Road address as his residence. Exh. 2 at 3.

On entering the property on July 2, 2004, Mr. Johnson observed materials including blocks, wood, pallet boards, metal, a tire, and what appeared to be a mattress. Tr. at 11; Exh. 2 at 3; Exh. 2 at 6-8 (photos 1-5); *see also* Tr. at 20. Those materials covered an area that Mr. Johnson estimated to be ninety feet wide and 75 feet long. Exh. 2 at 5; Exh. 2 at 8-9 (photos 6-7). The material appeared to have been spread to fill a low-lying area. Tr. at 11-12, 21-22; Exh. 2 at 3; Exh. 2 at 9 (photo 8). Mr. Johnson observed that Mr. Rodley's June 2004 photos show material in piles, while he later observed material that appeared to have been spread by moving equipment. Tr. at 10; *see* Exh. 1. The maximum depth of the material was approximately four feet at the back or north end, where Mr. Johnson observed a vertical drop. Exh. 2 at 3; *see* Tr. at 12. Mr. Johnson's site sketch noted material at ground level at the south end of the area. Exh. 2 at 5. Mr. Johnson did not observe dumping taking place at the site during his July 2, 2004 inspection. Tr. at 14.

Although some of the materials were charred and indicated burning, the area surrounding the materials was not scorched. Tr. at 12; Exh. 2 at 3. Mr. Johnson concluded that the materials may have been burned elsewhere and brought to the site for disposal. Tr. at 12; Exh. 2 at 3-4. Mr. Johnson also observed vehicle tracks throughout the area. Exh. 2 at 4. Because the site had no source generating materials, Mr. Johnson believed that the materials had originated at another site. *Id.*

Dan Kleiboecker owned the site before the respondent purchased it. Tr. at 23. From the end of the year 2000 into the year 2001, Keith Moss performed construction work building a house on the property for Kleiboecker. *Id.* During that work, Moss observed a dump truck being filled with materials including drywall, lumber, buckets, plumbing fixtures, furniture, and household furnishings. Tr. at 24-25. Moss reported that he could see the truck repeatedly crossing the road and dumping. *Id.* Moss stated that the Agency's photographs (Exh. 1, Exh. 2 at 6-9) appear to show the same materials that had been deposited on the site when Kleiboecker owned it. Tr. at 25.

STATUTORY BACKGROUND

Section 3.160 of the Act defines "general construction or demolition debris" as:

non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products;

wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and piping or metals incidental to any of those materials.

General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.

* * *

415 ILCS 5/3.160(a) (2004).

Section 3.305 of the Act defines “open dumping” as “the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a landfill.” 415 ILCS 5/3.305 (2004).

Section 3.385 of the Act defines “refuse” as “waste.” 415 ILCS 5/3.385 (2004).

Section 3.535 of the Act defines “waste” as:

any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. 415 ILCS 5/3.535 (2004).

Section 21(a) of the Act provides that “[n]o person shall [c]ause or allow the open dumping of any waste.” 415 ILCS 5/21(a) (2004).

Section 21(p) of the Act provides that no person shall, “in violation of subsection (a) of this Section, cause or allow the open dumping if any waste in a manner which results in any of the following occurrences at the dump site:

(1) litter

* * *

(7) deposition of:

- (i) general construction or demolition debris as defined in Section 3.160(a) of this Act; or
- (ii) clean construction or demolition debris as defined in Section 3.160(b) of this Act.” 415 ILCS 5/21(p) (2004).

Section 31.1(d)(2) of the Act provides that:

“[I]f the Board finds that the person appealing the [administrative] citation has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty.” 415 ILCS 5/31.1(d)(2) (2004).

Section 42(b)(4-5) of the Act provides that:

“In an administrative citation under Section 31.1 of this Act, any person found to have violated any provision of subsection (p) of Section 21 of this Act shall pay a civil penalty of \$1,500 for each violation of each such provision, plus any hearing costs incurred by the Board and the Agency, except that the civil penalty amount shall be \$3,000 for each violation of any provision of subsection (p) of Section 21 that is the person’s second or subsequent adjudication violation of that provision.” 415 ILCS 5/42(b)(4-5) (2004).

COMPLAINANT’S BRIEF

Noting that “‘open dumping’ means ‘the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill,’” the Agency argues it has demonstrated that open dumping occurred at the site. Pet. Brief at 1, citing 415 ILCS 5/3.305 (2004). The Agency claims that testimony at hearing and the inspection report admitted into evidence as Exhibit 2 show that discarded materials including blocks, burned debris, construction debris, wood, metal, a mattress, a tire, and other items were present. Pet. Brief at 1-2, citing Tr. at 11-12, 20 and Exh. 2 at 3, 6-9. The Agency further claims that the “[r]espondent admitted that construction debris, toilets, shingles, and mattresses had been present at the site.” Pet. Brief at 1-2, citing Tr. at 20. The Agency argues that these discarded materials constitute “waste” (415 ILCS 5/.535 (2004)) and thus fall within the statutory definition of “refuse” (415 ICLS 5/3.385 (2004)).

The Agency notes the respondent stated that, after discovering waste on the site, he placed certain materials including toiletry and glass in a dumpster for removal. Pet. Brief at 2, citing Tr. at 19-21. The Agency further notes that the respondent addressed the remaining materials by pushing them back and forth and leveling the area. Pet. Brief at 2, citing Tr. at 20-21. The Agency thus concludes that “[r]espondent caused or allowed the consolidation of refuse, and therefore the open dumping of waste observed on July 2, 2004.” Pet Brief at 2.

The Agency further claims that that this open dumping resulted in “litter.” Pet. Brief at 2. Although the Act does not define that term, the Agency notes that the Board has relied upon the definition provided in the Litter Control Act referring to “any discarded, used or unconsumed substance or waste.” Pet. Brief at 2, citing 415 ILCS 105/3(a) (2004) and St. Clair County v. Louis I. Mund, AC 90-64, slip op. at 4, 6 (Aug. 22, 1991). The Agency argues that the building materials, wood, metal, mattress, tire, and other items observed at the site constitute “litter” and that respondent has therefore violated section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)).

Furthermore, the Agency notes that Mr. Moss has testified that materials resulting from building demolition and construction were dumped on the site by a previous owner in 2000 and 2001. Tr. at 23-25. That Agency argues that material including cinder blocks, lumber, drywall, and plumbing fixtures constitute “construction or demolition debris” within the statutory definition of that term. Pet. Brief at 3, citing 415 ILCS 5/3.160(a) (2004). Accordingly, the Agency concludes that the respondent has violated section 21(p)(7) of the Act (415 ILCS 5/21(p)(7) (2004)).

The Agency acknowledges “[r]espondent did not originally place the waste at the site” and “he removed some of it. Pet. Brief at 3. However, the Agency notes “[t]his Board has held that present inaction on the part of a current landowner to remedy past illegal disposal of waste previously placed on the site constitutes ‘allowing’ open dumping, in that the owner allows the illegal situation to continue.” Pet. Brief at 3-4, citing Sangamon County v. Hsueh, AC 92-79, slip op. at 4-5 (July 1, 1993). The Agency further notes that “[a] person can cause or allow a violation of the Act without knowledge or intent.” Pet. Brief at 3, citing County of Will v. Utilities Unlimited, Inc. et al., AC 97-41, slip op. at 5 (July 24, 1997). In this case, the Agency argues that the respondent addressed the waste on his site in part by burying an estimated 500 cubic yards of it. Pet. Brief at 3, citing Exh. 2 at 1. The Agency claims that this impermissible burial merely exacerbated the illegal dumping onto the site and provides no defense to the two alleged violations. *See* Pet. Brief at 4.

RESPONDENT’S BRIEF

The respondent argues that, “[w]here there is no evidence in the record that the Respondent consolidated refuse from one or more sources, the open dumping provision of the Act is not violated.” Resp. Brief at 1, citing People v. Conrail Corp., 245 Ill. App. 3rd 167, 613 N.E.2d 784 (5th Dist. 1993). The respondent argues that a “common sense” interpretation of the definition of “open dumping” “seems to envision a situation in which materials are taken from one or more distinct sites, and then deposited on a single site, different from any of the sites on which any of the refuse was originally located.” Resp. Brief at 2, citing 415 ILCS 5/3.305 (2004).

The respondent argues that this case involves only a single source of the materials in question and emphasizes that he did not originally place the materials at that source. Resp. Brief at 2; *see* Pet. Brief at 3. The respondent suggest that he cannot have consolidated refuse “where he simply changed the position of materials that were already on the site” and neither removed materials to an unlicensed landfill or added fresh material to an existing unlicensed location.

Resp. Brief at 2. Accordingly, the respondent argues that none of his actions can be characterized as “open dumping.” Resp. Brief at 2-3.

ISSUES AND ANALYSIS

“Open Dumping” of “Waste”

To prove a violation of any subsection of section 21(p) of the Act (415 ILCS 5/21(p) (2004)), the Agency must first prove that the respondent violated section 21(a) of the Act by causing or allowing the open dumping of any waste. 415 ILCS 5/21(a) (2004).

“Open dumping” means “the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.” 415 ILCS 5/3.305 (2004). “Refuse” means “waste,” (415 ILCS 5/3.385 (2004)) and “waste” includes “any garbage . . . or other discarded material” (415 ILCS 5/3.535 (2004)).

The record shows that construction materials were placed on the site by a previous owner at the end of the year 2000 and the beginning of the year 2001. Tr. at 23-25. Specifically, respondent’s witness observed a dump truck filled with materials including cinder blocks, drywall, buckets, lumber, plumbing fixtures, and household furnishings. Tr. at 24-25. The truck crossed a road and dumped materials on the site. Tr. at 24. The witness agreed that the Agency’s photographs appeared to show the materials that had been placed on the site during the construction in 2000-01. Tr. at 25; *see* Exh. 1, Exh. 2 at 12-15 (photographs 1-8).

During his July 2, 2004, inspection, Mr. Johnson observed materials including blocks, wood, pallet boards, metal, a tire, and what appeared to be a mattress. Tr. at 11; Exh. 2 at 3; Exh. 2 at 6-8 (photos 1-5). These materials covered an area estimated to cover an area 90 feet wide and 75 feet long and to have a volume of 500 cubic yards. Exh. 2 at 7, 9. Mr. Johnson also observed at the site material that was scorched or charred. Tr. at 13; Exh. 2 at 9. Because the area around those materials was not scorched, Mr. Johnson concluded that those materials had been burned at another location and brought to the site for disposal. Tr. at 13; Exh. 2 at 9.

Because the record demonstrates that discarded material from one or more sources has been consolidated at the site, and because it has not been disputed that the site does not meet the requirements of a sanitary landfill, the Board concludes that “waste” has been “open dumped” at the site.

“Cause or Allow”

As the respondent stresses, “the evidence is uncontested that Respondent did not originally place the waste [at] the site. In fact, once Respondent discovered the waste on his property, he removed some of it.” Pet. Brief at 3. Specifically, the respondent suggests that he did not cause or allow the open dumping at the site because materials observed there were present before he owned the property. Resp. Brief at 2.

However, the Board has found that a current owner or operator can “allow” litter where the owner or operator did not act to remedy a previous violation. IEPA v. Rawe, AC 92-5, slip op. at 6 (Oct. 16, 1992) (citations omitted). “Present inaction on the part of the landowner to remedy the disposal of waste that was previously placed on the site, constitutes “allowing” litter in that the owner allows the illegal situation to continue.” *Id.* Specifically, the Board has held that passive conduct amounts to acquiescence sufficient to find a violation of Section 21(a) of the Act. *Id.* (citations omitted). In IEPA v. Goodwin, the Board stated “Mr. Goodwin has owned and controlled the property and has left the litter that had previously been dumped on the site to remain. Such inaction qualifies as an “allowance” under 415 ILCS 5/21(p)(1) (2000).” IEPA v. Goodwin, AC 02-17, slip op. at 4 (July 11, 2002).

While the respondent has suggested that he was not aware that his property included the area on which waste was found, “the Illinois Supreme Court has determined that one may ‘cause or allow’ a violation of the Act without knowledge or intent.” County of Will v. Utilities Unlimited, Inc., AC 97-41, slip op. at 10 (July 24, 1997), citing People v. Fiorina, 143 Ill. 2d 318, 574 N.E.2d 612 (1991). The Board finds that the respondent from February 19, 2004 had exercised control as owner of the site on which open dumping had occurred and thus allowed the open dumping of the waste observed there on July 2, 2004.

Litter

Although the Act does not define “litter,” the Board has looked to the definition in the Litter Control Act: “[l]itter’ means any discarded, used or unconsumed substance or waste. ‘Litter’ may include, but is not limited to, any garbage, trash, refuse, debris, rubbish . . . or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.” 415 ILCS 105/3(a) (2004); *see also* St. Clair County v. Louis I. Mund, AC 90-64, slip op. at 4, 6 (Aug. 22, 1991).

The record is clear that the site on July 2, 2004, contained discarded materials such as blocks, wood, pallet boards, drywall, metal, buckets, plumbing fixtures, a tire, and household furnishings including what appeared to be a mattress. Tr. at 11, 24-25; Exh. 2 at 3; Exh. 2 at 6-8 (photos 1-5). The Board finds that these materials fall within the definition of “litter” (415 ILCS 105/3(a) (2004)) and that the respondent violated section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)).

Construction or Demolition Debris

The Act provides that “general construction or demolition debris” means:

non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and

components containing no hazardous substances; and piping or metals incidental to any of those materials. 415 ILCS 5/3.160(a) (2004).

The record shows that the site contained discarded materials including blocks, wood, pallet boards, drywall, metal, buckets, plumbing fixtures, and household furnishings. Tr. at 11, 24-25; Exh. 2 at 3; Exh. 2 at 6-8 (photos 1-5). Furthermore, the respondent's witness testified in detail that he observed construction materials being placed on the site by a previous owner at the end of the year 2000 and the beginning of the year 2001. Tr. at 23-25. The witness agreed that Agency photographs appeared to show the same items placed on the site during the 2000-2001 construction. Tr. at 25; *see* Exh. 1, Exh. 2 at 12-15 (photographs 1-8). The Board finds that material falling under the definition of "general construction or demolition debris" had been open dumped on the site on July 2, 2004, and that the respondent violated section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2004); *see* 415 ILCS 5/3.160(a) (2004).

CONCLUSION

After reviewing the record in this case and the relevant portions of the Act, the Board finds that the respondent caused or allowed the open dumping of waste resulting in litter. The Board also finds that the respondent caused or allowed the open dumping of waste resulting in the deposition of general construction or demolition debris or clean construction or demolition debris.

The Board further finds that none of the facts or arguments raised by the respondent support a finding of "uncontrollable circumstances" that would justify dismissing the administrative citation. While the Board in rare cases will dismiss an administrative citation without finding uncontrollable circumstances (*see IEPA v. Jack Wright*, AC 89-227, slip op. at 14 (Aug. 30, 1990)), the record in this case does not warrant that result. Consequently, the Board finds that the respondent has violated section 21(p)(1) and 21(p)(7) of the Act. 415 ILCS 5/21(p)(1) and (p)(7) (2004). In its final order, the Board will order him to pay a civil penalty of \$4,500.

As set forth below, the Board directs the Clerk and the Agency to document hearing costs and serve them upon the respondent, after which the Board will issue a final order.

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

PENALTY

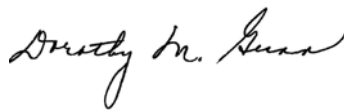
In an administrative citation proceeding, any person found to have violated subsection (p) of section 21 of the Act must pay a penalty of \$1,500 for each violation of each provision of the section and \$3,000 for each violation of each provision that is a second or subsequent offense, plus any hearing costs incurred by the Board and the Agency. 415 ILCS 5/42(b)(4-5) (2004). Because the Board finds that Mr. Shrum has violated two subsections of section 21 and that he has previously violated subsection (p)(1) (*County of Perry v. William Shrum*, AC 02-1, slip op. at 1 (Sept. 6, 2001)), in its final order the Board will order Mr. Shrum to pay a civil penalty of \$4,500 plus costs.

ORDER

1. The Board finds that William Shrum violated sections 21(p)(1) and 21(p)(7) of the Act. 415 ILCS 5/21(p)(1), 21(p)(7) (2004).
2. The Illinois Environmental Protection Agency must file a statement of its hearing costs within 14 days of this order, on or about March 30, 2006. The statement must be supported by affidavit and served upon Mr. Shrum. Within the same 14-day period, the Clerk of the Illinois Pollution Control Board must also file and serve upon Mr. Shrum a statement of the Board's hearing costs supported by affidavit.
3. Respondent may file any objections to those statements within 21 days of service of those statements of hearing costs, by a date on or about April 20, 2006. 35 Ill. Adm. Code 108.506(a). The Agency may then file a reply to the respondent's response within 14 days of service of that response. 35 Ill. Adm. Code 108.506(b).
4. Because the Board has found that the respondent has violated two subsections of section 21 and that he has previously violated subsection 21(p)(1) (County of Perry v. William Shrum, AC 02-1, slip op. at 1 (Sept. 6, 2001)), the Board will then issue a final order assessing a statutory penalty of \$4,500 for the violations and awarding appropriate hearing costs. 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above interim opinion and order on March 16, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board