

ILLINOIS POLLUTION CONTROL BOARD

November 16, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-40
)	(IEPA No. 567-04-AC)
NORTHERN ILLINOIS SERVICE)	(Administrative Citation)
COMPANY,)	
)	
Respondent.)	

MICHELLE M. RYAN, SPECIAL ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT; and

LEWIS B. KAPLAN AND PETER D. DeBRUYNE APPEARED ON BEHALF OF THE RESPONDENT.

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

On September 21, 2006, the Board issued an interim opinion and order, finding that respondent Northern Illinois Service Company (Northern) violated two open dumping provisions of the Environmental Protection Act (Act) (415 ILCS 5 (2004)) at a site in Roscoe, Winnebago County. Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order.

In the interim opinion and order, the Board found that Northern violated Sections 21(p)(1) and (7) of the Act by causing the open dumping of waste resulting in litter and the deposition of general construction or demolition debris at 4690 Rockton Road, Roscoe, Winnebago County (Roscoe Quarry). 415 ILCS 5/21(p)(1), (7) (2004). The Agency filed this administrative citation with the Board on November 22, 2004 based on the Agency's October 4, 2004 inspection of the Roscoe Quarry.

Because there were two violations of Section 21(p) and the violations are first offenses, the Board found that under Section 42(b)(4-5) of the Act, the total civil penalty is \$3,000. 415 ILCS 5/42(b)(4-5) (2004). In addition, because Northern did not succeed at hearing, it must pay the hearing costs of both the Agency and the Board. 35 Ill. Adm. Code 108.502, 108.504. The Board ordered the Agency and the Clerk of the Board to submit hearing costs by October 11, 2006.

The hearing in this administrative citation was held on April 20, 2006, at the State of Illinois Rockford Regional Office. On September 25, 2006, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$406.50. The Agency has not filed a statement of

hearing costs. Northern has not responded to the Board's statement of costs. Consequently, Northern will only be responsible for the hearing costs submitted by the Board, in addition to the civil penalty of \$3,000.

The Board finds the hearing costs of the Board reasonable and orders Northern to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2004). The Board incorporates by reference the findings of fact and conclusions of law from its September 21, 2006 interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order.

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

ORDER

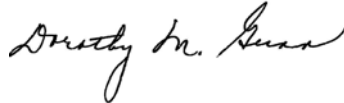
1. The Board finds that respondent Northern Illinois Service Company (Northern) violated Section 21(p)(1) and (7) of the Environmental Protection Act at its property in Roscoe, Winnebago County. 415 ILCS 5/21(p)(1), (7) (2004).
2. The Board assesses the civil penalty of \$3,000 for the violations, as well as hearing costs totaling \$406.50, for a total amount due of \$3,406.50. Northern must pay \$3,406.50 no later than January 2, 2007, which is the first business day following the 45th day after the date of this order. Northern must pay this amount by certified check, money order or electronic funds transfer, made payable to the Environmental Protection Trust Fund. The case numbers, case name, and Northern's federal employer identification number must be included on the certified check, money order or electronic funds transfer.
3. Northern must send the certified check, money order or electronic funds transfer to:

Illinois Environmental Protection Agency
 Fiscal Services
 1020 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the 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)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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 November 16, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board