

ILLINOIS POLLUTION CONTROL BOARD

June 7, 2001

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 01-39
)	(IEPA No. 175-01-AC)
IVAN R. SMITH and LOIS SMITH,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by C.A. Manning):

On April 26, 2001, pursuant to Section 31.1(b) of the Environmental Protection Act (Act) (415 ILCS 31.1(b) (2000)), the Illinois Environmental Protection Agency issued an administrative citation to Ivan R. Smith and Lois Smith. The administrative citation alleges that the respondents caused or allowed the open dumping of waste in a manner that resulted in litter, open burning, the deposition of waste in standing or flowing waters, and the deposition of general and clean construction or demolition debris. These activities were in alleged violation of Sections 21(p)(1), (p)(3), (p)(4), and (p)(7) of the Act (415 ILCS 5/21 (p)(1), (p)(3), (p)(4), (p)(7) (2000), as amended by Pub. Act 91-72, eff. July 9, 1999). The alleged violations occurred at a facility located on Smith Downs Lane approximately one mile north of Hatfield Road, Schuyler County, Illinois.

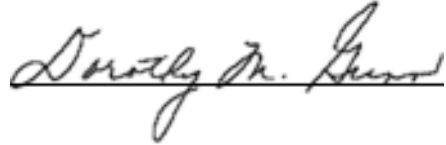
On May 30, 2000, respondents filed a petition for review of the administrative citation pursuant to Section 31.1(d). 415 ILCS 31.1(d) (2000). The certificate of service states that the petition was mailed on May 26, 2001. The mailbox rule provides that if "a document is filed by U.S. Mail subsequent to a filing deadline, yet the postmark precedes the filing deadline, the document will be deemed filed on the postmark date." 35 Ill. Adm. Code 101.300(b)(2). Since the petition was postmarked prior to the filing deadline, the Board accepts this matter for hearing.

The Board reminds respondents that, after hearing, any person found to have violated the Act as alleged in the administrative citation is liable to pay a penalty under Section 42(b)(4) of the Act of \$1,500 per violation, as well as any hearing costs incurred by the Board or the complainant. 415 ILCS 42(b)(4) (2000).

The Board directs that this matter proceed to hearing as expeditiously as practicable. The assigned hearing officer must set the matter for hearing in accordance with the requirements of the Act and the Board's procedural rules.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of June 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board