

ILLINOIS POLLUTION CONTROL BOARD

August 8, 2002

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 02-57
	)	(CDOE No. 02-03-AC)
CITY WIDE DISPOSAL, INC.,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On May 29, 2002, the City of Chicago Department of Environment (Department) timely filed an administrative citation against City Wide Disposal, Inc. (City Wide). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Department alleges that City Wide violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(7) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002). The Department further alleges that City Wide violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter and deposition of construction or demolition debris at a facility located at 3910 South Loomis, Chicago, Cook County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the Department served the administrative citation on City Wide within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2000); 35 Ill. Adm. Code 108.204(b), 108.406. Here, City Wide failed to timely file a petition. Accordingly, the Board finds that City Wide violated Sections 21(p)(1) and (p)(7) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2000); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and these violations are a first offense, the total civil penalty is \$3,000. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

**ORDER**

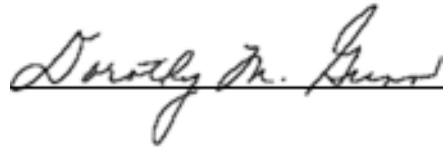
1. City Wide Disposal, Inc. (City Wide) must pay a civil penalty of \$3,000 no later than September 8, 2002.
2. City Wide must pay the civil penalty by certified check or money order, made payable to the City of Chicago. The case number, case name, and City Wide's social security number or federal employer identification number must be included on the certified check or money order.
3. City Wide must send the certified check or money order and the remittance form to:  
  
City of Chicago Department of Environment  
Field Operations Division  
30 North LaSalle, Suite 2500  
Chicago, Illinois 60602
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Board Member G.T. Girard dissented.

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) (2000); *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 August 8, 2002, by a vote of 6-1.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board