

ILLINOIS POLLUTION CONTROL BOARD
February 6, 2020

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 19-20
)	(IEPA No. 72-19-AC)
BRUCE and NANETTE BONTZ and D.)	(Administrative Citation)
BROOKS EXCAVATING, INC.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on June 20, 2019, against Bruce and Nanette Bontz and D. Brooks Excavating, Inc. (collectively, respondents). The Agency alleged that on April 25, 2019, respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2018)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. The violations allegedly took place at respondents' property located at 4217 S Harkers Corner Road in Mapleton Peoria County. The property is commonly known to the Agency as the "Mapleton/Bontz Bruce/Nannette" site and is designated with Site Code No. 1438095005.

Respondents timely filed a petition to contest the administrative citation, which the Board accepted on July 25, 2019. On January 29, 2020, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, respondents admit that they violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2018)) by causing or allowing open dumping resulting in litter, and agree to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 2. Respondents also agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2018)), the Board therefore finds that respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2018)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2018)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that respondents

pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Sections 21(p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(3), (p)(7) (2018)).

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

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2018)).
3. Respondents must pay a civil penalty of \$1,500 no later than March 9, 2020 which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and respondents' social security numbers and federal employer identification number must appear on the face of the certified check or money order.
4. Respondents 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) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
6. The Board dismisses the alleged violations of Sections 21(p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(3), (p)(7) (2018)) and respondents' petition to contest the administrative citation.

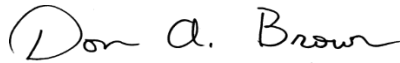
IT IS SO ORDERED.

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) (2018); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Environmental Protection Agency Attn: Michelle M. Ryan 1021 North Grand Avenue East Springfield, IL 62702-4059	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Bruce and Nanette Bontz and D. Brooks Excavating, Inc. Attn: Daniel P. Cusack Cusack, Gilfillan & O'Day, LLC 415 Hamilton Blvd Peoria, IL 61602	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 6, 2020 by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board