

ILLINOIS POLLUTION CONTROL BOARD  
May 15, 2014

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 14-42
	)	(IEPA No. 54-14-AC)
GHENT B. HOLMAN, JR.,	)	(Administrative Citation)
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On March 14, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ghent B. Holman, Jr. (Holman). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Holman’s facility located at 15885 North Illinois Highway 37 in Mt. Vernon, Jefferson County. The property is commonly known to the Agency as the “Mt. Vernon/Holman, Ghent B. Jr.” site and is designated with Site Code No. 0818105006. For the reasons below, the Board finds that Holman violated the Environmental Protection Act (Act) (415 ILCS 5 (2012)) and orders him to pay \$1,500 in civil penalties.

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on January 22, 2014, Holman violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on Holman, for a total civil penalty of \$1,500. As required, the Agency served Holman with the administrative citation on March 24, 2014, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 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 violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by April 28, 2014. Holman failed to timely file a petition. Accordingly, the Board finds that Holman violated Section 21(p)(1) of the Act.

The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2012); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500.<sup>1</sup> Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

### **ORDER**

1. The Board finds that Ghent B. Holman, Jr. (Holman) violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2012)).
2. Holman must pay a civil penalty of \$1,500 no later than June 16, 2014, which is the first business day following the 30th day after the date of this order. Holman must pay the civil penalty by certified check, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Holman's social security number or federal employer identification number must be included on the certified check.
3. Holman must send the certified check and the remittance form to:  
  
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 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 Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

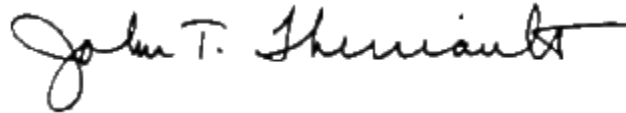
IT IS SO ORDERED.

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<sup>1</sup> The Board notes that on May 1, 2014, the Board found respondent violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) based on an inspection by the Agency at a different site on January 22, 2014. However, as the inspections occurred on the same day at different sites, the finding of violation on May 1, 2014, does not result in today's finding of violation being a second adjudicated violation.

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) (2012); *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, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 15, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

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John T. Therriault, Clerk  
Illinois Pollution Control Board