

ILLINOIS POLLUTION CONTROL BOARD

August 7, 2014

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 14-47
) (IEPA No. 102-14-AC)
ROBERT FRAZIER,) (Administrative Citation)
)
Respondent.)

ORDER OF THE BOARD (by D. Glosser):

On April 18, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert Frazier (respondent). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s facility located at 587 1600 North Road in Bondville, Champaign County. The property is commonly known to the Agency as the “Bondville/Bright Ideas Storage” site and is designated with Site Code No. 0190035009.

On June 5, 2014, the Board found that respondent violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) and (p)(7) (2012)), as the filing of the petition for review was not timely. On June 30, 2014, the Board received from respondent a motion for reconsideration. Respondent argues that the procedures for contesting the administrative citation included with the administrative citation did not explain the Board’s mailbox rule.

In ruling on a motion for reconsideration, the Board will consider factors including new evidence or a change in the law to conclude that the Board’s decision was in error. 35 Ill. Adm. Code 101.902. In Stop The Mega-Dump v. County Board of DeKalb County, Illinois and Waste Management, of Illinois Inc., PCB 2010-103 (May 19, 2011), the Board observed that “the intended purpose of a motion to reconsider is to bring to the court’s attention newly discovered evidence which was not available at the time of hearing, changes in the law or errors in the court’s previous application of the existing law.” *Id.*, citing Citizens Against Regional Landfill v. County Board of Whiteside, PCB 92-156 (Mar. 11, 1993); *see also* O’Shield v. Lakeside Bank, 335 Ill. App. 3d 834, 838, 781 N.E.2d 1114, 1118 (1st Dist. 2002). The Board has considered the respondent’s request for reconsideration and denies the request as the motion presents no new evidence or a change in the law which would lead the Board to conclude that the Board’s decision was in error. Therefore, the Board denies the motion, affirms its order of June 5, 2014, and closes the docket. As the June 5, 2014 order included a due date for penalty payment which has now passed, the Board’s order below adjusts the due date.

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

ORDER

1. The Board denies Robert Frazier's motion to reconsider.
2. The Board affirms its finding that Robert Frazier violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2012)).
3. Respondent must pay a statutory civil penalty of \$4,500 no later than September 8, 2014, which is the first business day following the 30th day after the date of this order. Respondent must pay this amount by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondent's social security number or federal employer identification number must be included on the certified check or money order.
4. Respondent must send the certified check or money order to:

Illinois Environmental Protection Agency
Attn.: Fiscal Services
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 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) 2012)).
6. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the 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, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 7, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Assistant Clerk
Illinois Pollution Control Board