

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 2020

COUNTY OF LASALLE, )  
)  
Complainant, )  
)  
v. )  
)  
DSV SPV2, LLC, ) AC 20-3  
) (IEPA No. 0998285003)  
Respondent. ) (Administrative Citation)

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

On January 22, 2020, County of LaSalle timely filed an administrative citation against DSV SPV2 LLC (DSV). *See* 415 ILCS 5/31.1(c) (2018); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns DSV’s residential property located at 556 N 14<sup>th</sup> Road, in Lostant, LaSalle County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “DSV SPV2 LLC Property” site and is designated with Site Code No. 0998285003. For the reasons below, the Board finds that DSV violated the Environmental Protection Act (Act) (415 ILCS 5 (2018)) and orders DSV 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) (2018); 35 Ill. Adm. Code 108.

In this case, LaSalle County alleges that on January 13, 2020, DSV violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2018)) by causing or allowing the open dumping of waste resulting in litter at the site. LaSalle County asks the Board to impose the statutory \$1,500 civil penalty per violation on DSV, for a total civil penalty of \$1,500. As required, LaSalle County served DSV with the administrative citation on February 21, 2020, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2018); *see also* 35 Ill. Adm. Code 101.300(c), 108.200(b)(1).

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) (2018); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by March 27, 2020. DSV failed to timely file a petition. Accordingly, the Board finds that DSV 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) (2018); 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. 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 DSV violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2018)).
2. DSV must pay a civil penalty of \$1,500 no later than May 18, 2020, which is the first business day following the 30th day after the date of this order. DSV must pay the civil penalty by certified check or money order, made payable in two equal amounts, one to the Illinois Environmental Protection Trust Fund and one to the LaSalle County Treasurer. The case number, case name, and DSV's social security number or federal employer identification number must be included on each of the two certified checks or money orders.
3. DSV must send one certified check or money order and the remittance form to each of the following addresses:  
  
    Illinois Environmental Protection Agency  
    Fiscal Services Division  
    1021 North Grand Avenue East  
    P.O. Box 19276  
    Springfield, Illinois 62794-9276  
  
    LaSalle County Department of Environmental Services and Land Use  
    119 West Madison Street  
    Room 107  
    Ottawa, Illinois 61350
4. 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)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
LaSalle County State's Attorney Office Attn: Mark Anderson 707 Etna Road Room 251 Ottawa, IL 61350	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
National Registered Agents, Inc. DSV SPV2 LLC 208 South LaSalle St., Suite 814 Chicago, IL 60606	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 16, 2020 by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board