

ILLINOIS POLLUTION CONTROL BOARD
April 16, 2020

COUNTY OF JACKSON,)
)
Complainant,)
)
v.)
)
NORMAN AND MONICA MARTIE,) AC 20-4
) (IEPA No. 0778105103)
Respondents.) (Administrative Citation)

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

On February 20, 2020, Jackson County timely filed an administrative citation against Norman Martie and Monica Martie (The Marties). *See* 415 ILCS 5/31.1(c) (2018); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns the Martie’s residential property located at 9814 Highway 127 South in Murphysboro, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “Murphysboro/Norman & Monica Martie” site and is designated with Site Code No. 0778105103. For the reasons below, the Board finds that the Marties violated the Environmental Protection Act (Act) (415 ILCS 5 (2018)) and orders the Marties to pay \$4,500 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 Illinois Environmental Protection Agency (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, Jackson County alleges that on December 20, 2019, the Marties violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2018)) by causing or allowing open burning at the site, resulting in litter, open burning, and depositing general or clean construction or demolition debris at the site. Jackson County asks the Board to impose the statutory \$1,500 civil penalty per violation on the Marties, for a total civil penalty of \$4,500. As required, Jackson County served the Marties with the administrative citation on February 11, 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 17, 2020. The Marties

failed to timely file a petition. Accordingly, the Board finds that the Marties violated Sections 21(p)(1), (p)(3), and (p)(7) 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 are three violations of Section 21(p) and there is no indication in the record that any of these is a second or subsequent adjudicated violation, the total civil penalty is \$4,500. 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 the Marties violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2018)).
2. The Marties must pay a civil penalty of \$4,500 no later than May 18, 2020 which is the first business day following the 30th day after the date of this order. The Marties 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 Jackson County. The case number, case name, and the Martie's social security number or federal employer identification number must be included on the certified check or money order.
3. The Marties must send the certified check or money order and the remittance form to each of the following:

Illinois Environmental Protection Agency
 Fiscal Services Division
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

County of Jackson
 Jackson County Treasurer
 Jackson County Courthouse
 Murphysboro, Illinois 62966
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 violations continue.

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
Jackson County State's Attorney Office Attn: Gene A. Turk, Jr. Jackson County Courthouse, 3 rd Floor Murphysboro, IL 62966 gene.turk@jacksoncounty-il.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Norman Martie Monica Martie 9814 Highway 127 South Murphysboro, IL 62966	

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