

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 2020

COUNTY OF JACKSON, )  
)  
Complainant, )  
)  
v. )  
)  
PHILLIP QUALLS, ) AC 20-5  
) (IEPA No. 0770405038)  
Respondent. ) (Administrative Citation)

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

On March 3, 2020, Jackson County timely filed an administrative citation against Phillip Qualls. The administrative citation was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(c) (2018); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns Mr. Qualls’ residential property located at 110 Main Street in Grand Tower, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “Grand Tower/Phillips Qualls” site and is designated with Site Code No. 0770405038. For the reasons below, the Board finds that Mr. Qualls violated the Environmental Protection Act (Act) (415 ILCS 5 (2018)) and orders Mr. Qualls 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 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 18, 2019, Mr. Qualls violated Section 21(p)(1), 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2018)) by causing or allowing open dumping at the site resulting in litter, open burning, and depositing general or clean construction or demolition debris. Jackson County asks the Board to impose the statutory \$1,500 civil penalty per violation on Mr. Qualls, for a total civil penalty of \$4,500. As required, Jackson County served Mr. Qualls with the administrative citation on February 14, 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 20, 2020. Mr. Qualls

failed to timely file a petition. Accordingly, the Board finds that Mr. Qualls 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 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 Mr. Qualls violated Sections 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. Mr. Qualls 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. Mr. Qualls must pay the civil penalty by certified check or money order, made payable in two equal amounts to the Illinois Environmental Protection Trust Fund and to the Jackson County Treasurer. The case number, case name, and Mr. Qualls' social security number or federal employer identification number must be included on each of the certified checks or money orders.
3. Mr. Qualls must send the certified checks or money orders and the remittances 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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Jackson County State's Attorney Office Attn: Gene A. Turk, Jr. Jackson County Courthouse, 3 <sup>rd</sup> Floor Murphysboro, Illinois 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
Phillip Qualls 110 Main Street Grand Tower, Illinois 62942	

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