

ILLINOIS POLLUTION CONTROL BOARD  
June 3, 2021

COUNTY OF LASALLE	)	
	)	
Complainant,	)	
	)	
v.	)	AC 2021-005
	)	County No. LC2021-03
ROBERT DURBIN,	)	Administrative Citation
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by C. M. Santos):

On April 5, 2021, County of LaSalle timely filed an administrative citation against Robert Durbin. *See* 415 ILCS 5/31.1(c) (2018); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns Robert Durbin’s property located at 205 East Broad St. in Rutland, LaSalle County. The property is commonly known to the Illinois Environmental Protection Agency as the “Wilburn Property” site and is designated with Site Code No. 0998145008. For the reasons below, the Board finds that Robert Durbin violated the Environmental Protection Act (Act) (415 ILCS 5 (2018)) and orders Robert Durbin to pay \$6,000 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 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, the County of LaSalle alleges that on March 16, 2021, Robert Durbin violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), and (p)(7) (2018)) by causing or allowing open dumping of waste resulting in litter, scavenging, open burning, and deposition of general construction or demolition debris. The County of LaSalle asks the Board to impose the statutory \$1,500 civil penalty per violation on Robert Durbin, for a total civil penalty of \$6,000. As required, the County of LaSalle served Robert Durbin with the administrative citation on April 15, 2021, 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 May 20, 2021. Robert Durbin

failed to timely file a petition. Accordingly, the Board finds that Robert Durbin violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Act.

The civil penalty for violating any provisions of Section 21(p), 22.51, 22.51a, or 55(k) 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) (2018); 35 Ill. Adm. Cod 108.500(a). Because there are four violations of Section 21(p) and no indication in the record that any of these are a second or subsequent adjudicated violation, the total civil penalty is \$6,000. 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 Robert Durbin violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2018)).
2. Robert Durbin must pay a civil penalty of \$6,000 no later than Tuesday, July 6, 2021, which is the first business day following the 30th day after the date of this order. Robert Durbin must pay the civil penalty by certified check or money order, made payable to the LaSalle County Treasurer and the Illinois Environmental Protection Trust. The case number and case name must appear on the certified check or money order.
3. Robert Durbin must send one certified check or money order for \$3,000 to:  
  
LaSalle County Department of Environmental Services and Land Use  
119 West Madison Street  
Room 107a  
Ottawa, Illinois 61350  
  
And one certified check or money order for \$3,000 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) (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>
County of LaSalle Attn: Mark Anderson 707 Etna Road Ottawa, Illinois 61350	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Robert Durbin 205 E Broad St. Rutland, Illinois 61358	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 3, 2021, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board