

The civil penalty for violating any provision of subsection (p) of Section 21 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) (2006); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and no allegation of any second or subsequent adjudicated violation, the total civil penalty is \$3,000. 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 Yount violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3) (2006)).
2. Yount must pay the total civil penalty amount of \$3,000 no later than September 22, 2008, which is the first business day following the 30th day after the date of this order. Yount must pay the civil penalty by two separate certified checks, each in the amount of \$1,500, one made payable to the County of Vermilion, Illinois, and the other made payable to the Illinois Environmental Protection Fund. Each certified check must include the case number, case name, and Yount's social security number.
3. Yount must send the \$1,500 certified check payable to the County of Vermilion, Illinois, along with the respective remittance form, to:

Vermilion County Health Department
200 South College Street
Danville, Illinois 61832
4. Yount must send the \$1,500 certified check payable to the Illinois Environmental Protection Trust Fund, along with the respective remittance form, to:

Fiscal Services
Illinois Environmental Protection Agency
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 Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
6. 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) (2006); *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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 21, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

JUL 07 2008

COUNTY OF VERMILION, ILLINOIS,)
)
Complainant,)
)
v.)
)
CONNIE YOUNT,)
)
Respondent.)

STATE OF ILLINOIS
Pollution Control Board
AC No. 09
County File No. 08-03

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 4(e) and 31.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

FACTS

1. Respondent, Connie Yount, is, and was at all times relevant to this Administrative Citation, the owner of property located at 546 Highland Park Road, Danville, County of Vermilion, State of Illinois.
2. Said property was operated as an unlicensed open dump, and designated with Illinois Environmental Protection Agency Site Code No. 1838045028.
3. On May 14, 2008, Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of their inspection report are attached hereto and made a part hereof by reference.

VIOLATIONS

On the basis of the direct observation of Douglas Toole, the County of Vermilion has determined that on May 14, 2008, Respondent was conducting an unlicensed open dump at the above-described address, which is required to have a permit pursuant to 415 ILCS 5/21(a) of the Act, in a manner which resulted in the following conditions:

- A. Open dumping resulting in litter was observed at the site, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...litter; and

- B. Open dumping resulting in open burning was observed at the site, in violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...open burning.

CIVIL PENALTY

Pursuant to section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent herein is subject to a civil penalty of Fifteen Hundred Dollars (\$1500.00) for each of the above-mentioned violations. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein, and if there is a finding of the violation alleged herein after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Pollution Control Board, in addition to the Fifteen Hundred Dollar (\$1500.00) statutory penalty for each violation.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation under section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment will be issued by the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Vermilion County State's Attorney's Office, 7 North Vermilion Street, Danville, Illinois 61832.

If you acknowledge the violation cited herein, the civil penalty specified above shall be due and payable no later than August 4, 2008. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof and have not paid the civil penalty by the due date stated above, or if you elect to contest this Administrative Citation, any judgment rendered shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, checks shall be made payable in equal amounts (50% of the total penalty each) to:

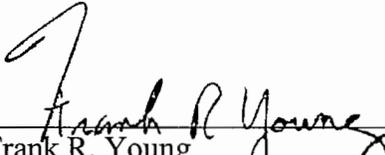
(1) the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276; and

(2) the County of Vermilion, Illinois, and mailed to the attention of Vermilion County Health Department, 200 South College Street, Danville, Illinois 61832.

Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Vermilion County State's Attorney may initiate proceedings in the Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty and any hearing costs of the Illinois Pollution Control Board, the State's Attorney's Office will seek to recover its costs of litigation.

Dated: 7/3/08



Frank R. Young
State's Attorney for Vermilion County

By: 

Charles D. Mockbee IV
Assistant State's Attorney

Prepared by:
Charles D. Mockbee IV
Office of the State's Attorney
7 N. Vermilion St.
Danville, IL 61832
217-554-7750

ORIGINAL

RECEIVED
CLERK'S OFFICE

JUL 07 2008

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM TO ILLINOIS EPA

IN THE MATTER OF)
CONNIE YOUNT,)
)
)
)
Respondent)

AC No. 09-1
County File No. 08-03

Facility/Property: Connie Yount

County: Vermilion

Date of Inspection: May 14, 2008

Site Code No.: 1838045028

Civil Penalty to Illinois EPA: \$750.00 for each violation = \$1500.00

Date Remitted: _____

SSN/FEIN No.: _____

Signature: _____

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the the Illinois Environmental Protection Trust Fund. Be sure your check is enclosed with this Remittance Form and mail to: Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

ORIGINAL

REMITTANCE FORM TO VERMILION COUNTY HEALTH DEPARTMENT

IN THE MATTER OF)
CONNIE YOUNT,)
)
)
)
Respondent)

AC No. 09-1
County File No. 08-03

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CLERK'S OFFICE
JUL 07 2008
STATE OF ILLINOIS
Pollution Control Board

Facility/Property: Connie Yount
County: Vermilion
Date of Inspection: May 14, 2008
Site Code No.: 1838045028
Civil Penalty to County: \$750.00 for each violation = \$1500.00
Date Remitted: _____
SSN/FEIN No.: _____
Signature: _____

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the County of Vermilion, Illinois. Be sure your check is enclosed with this Remittance Form and mail to: Vermilion County Health Department, 200 S. College Street, Danville, Illinois 61832.