

ILLINOIS POLLUTION CONTROL BOARD  
June 2, 2011

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 10-10
	)	(IEPA No. 294-09-AC)
JESS SPRADLIN d/b/a SPRADLIN MOTOR	)	(Administrative Citation)
HOMES and DREWNARD WOODS AND	)	
KRIS WARREN d/b/a W&W AUTO	)	
SERVICE,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.T. Girard):

On December 4, 2010, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Jess Spradlin, d/b/a Spradlin Motor Homes, and Drewnard Woods and Kris Warren, d/b/a W&W Auto Service. *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 1709 Dirksen Parkway, Springfield, Sangamon County. The property is commonly known to the Agency as the “Springfield/W&W Auto Service” site and is designated with Site Code No. 1671205263.

In this order, the Board grants the Agency’s motion for voluntary dismissal of Jess Spradlin. In addition, the Board assesses the civil penalty of \$4,500 against respondents Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, consistent with the Board’s order of March 4, 2010 finding that Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, committed the violations as charged in the administrative citation.

On May 19, 2011, the Agency filed a motion for voluntary dismissal of the administrative citation. In the motion, the Agency states that “the newly-discovered circumstances surrounding the case, Agency believes that it is now appropriate to dismiss this Administrative Citation against Respondent [Jess] Spradlin.” Motion at 2. The Board grants the Agency’s motion for voluntary dismissal of Jess Spradlin, and dismisses his petition for review as moot.

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) (2008); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on October 5, 2010, Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, violated Section 21(p)(1) and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 5/55 (k)(1) (2008) by causing or allowing the open dumping of waste in a manner resulting in litter and causing or allowing water to accumulate in waste tires. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, for a total civil penalty of \$3,000. As required, the Agency served the administrative citation on Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2008); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b).

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) (2008); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by January 6, 2010. Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, failed to timely file a petition. Accordingly, the Board found in the March 4, 2011 order that Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, violated Section 21(p)(1) and 55(k)(1) of the Act.

The civil penalty for violating any provision of Sections 21(p)(1) and 55(k)(1) 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) (2008); 35 Ill. Adm. Code 108.500(a). Because this is a second or subsequent adjudicated violation of Section 21(p)(1) (*see* IEPA v. Jess Spradlin d/b/a Spradlin Mobile Home Sales and Drewnard Woods and Kris Warren d/b/a W&W Auto Service, AC 10-1 (September 3, 2009)), respondent is subject to a civil penalty of \$3,000 for the second or subsequent violation of Section 21(p)(1) and \$1,500 for the alleged violation Section 55 (k)(1), for a total civil penalty of \$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 Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 5/55(k)(1) (2008)).
2. Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, must jointly and severally pay a civil penalty of \$4,500 no later than July 5, 2011, which is the first business day following the 30th day after the date of this order. Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Drewnard Woods’ and

Kris Warren's, d/b/a W&W Auto Service, federal employer identification number or social security number must be included on the certified check or money order.

3. Drewnard Woods and Kris Warren, d/b/a W&W Auto Service, must send the certified check or money order and the remittance form 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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
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) (2008); *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.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 2, 2011, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board