



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) or (4-5)] (2012); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and no indication in the record that either of these is a 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 Jerry Nuss violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7)(2012)).
2. Jerry Nuss must pay a civil penalty of \$3,000 no later than November 3, 2014, which is the first business day following the 30th day after the date of this order. Jerry Nuss must pay the civil penalty by certified check or money order, made payable to the County of Vermilion. The case number, case name, and Jerry Nuss' social security number or federal employer identification number must be included on the certified check or money order.
3. Jerry Nuss must send the certified check or money order and the remittance form to:

County of Vermilion Illinois  
Vermilion County Health Department  
200 South College Street  
Danville, Illinois, 61832
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
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) (2012); *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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 2, 2014, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Clerk  
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION**

COUNTY OF VERMILION, ILLINOIS,	)	Case No.: AC:
	)	County File No.: 14-01
Complainant,	)	
vs.	)	
Jerry Nuss,	)	
Respondent	)	

**JURISDICTION**

The Administrative Citation is issued pursuant to the statutory authority vested in the Illinois Environmental Protection Agency by section 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. That Respondent, Jerry Nuss, is, and was at all times relevant to this Administrative Citation, the owner of property located at the area of 34336 North 1700 East Road, in east rural Rossville, more particularly Latitude 40.373, Longitude -87.628.
2. That said property is land which is not permitted as a sanitary landfill or dump area.
3. That on 07/24/2014 Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of his inspection report are attached hereto and incorporated herein by reference.

**VIOLATIONS**

1. On the basis of direct observations personally made by Douglas Toole, the County of Vermilion has determined that on 07/24/2014:
  - A. The Respondent was allowing the open dumping of waste which resulted in litter in violation of Section 21(p) (1).
  - B. The Respondent caused or allowed the open dumping of any waste which results in the deposition of general construction or demolition debris and clean construction and demolition debris in violation of Section 21(p)(7).

**CIVIL PENALTY**

Pursuant to Section 42(b) (4) of the Act, 415 ILCS 5/42(b)(4), Respondent herein is subject to a civil penalty of \$1,500.00 for each violation of each provision under subsection p of Section 21, plus any hearing costs incurred by the Board should the Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below.

**PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION**

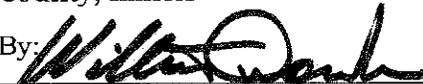
You have the right to contest this Administrative Citation under Section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a petition for Review with the Clerk of the Illinois Pollution Control, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed with 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, Courthouse, 2<sup>nd</sup> Floor, 7 N Vermilion Street, Danville, Illinois, 61832.

If you acknowledge the violation herein, the civil penalty specified above shall be due and payable no later than September 30, 2014. If you do not petition the Illinois Pollution Control Board for review of the Administrative Citation within thirty-five (35) days of the 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, your check should be made payable to the County of Vermilion, Illinois and mailed to the Vermilion County Health Department, 200 South College Street, Danville, Illinois, 61832, together with a completed copy of the remittance form attached hereto.

If any civil penalty, by reason of acknowledgment, default or finding after 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 this August 6, 2014

Randall J. Brinegar  
State's Attorney for Vermilion  
County, Illinois

By:   
William T. Donahue  
Assistant State's Attorney