

ILLINOIS POLLUTION CONTROL BOARD  
December 18, 2014

COUNTY OF JACKSON, )  
)  
Complainant, )  
)  
v. ) AC 15-20  
) (Administrative Citation)  
CHRISTOPHER WILL, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On October 31, 2014, the County of Jackson (County) timely filed an administrative citation against Christopher Will (respondent). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s facility located at 6168 Hickory Ridge Road, Pomona, Jackson County. The property is commonly known to the Agency as the “Pomona/Christopher Will” site and is designated with Site Code No. 077 812 5014. For the reasons below, the Board finds that respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2012)) and orders him to pay \$10,500 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 Illinois Environmental Protection Agency (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) (2012); 35 Ill. Adm. Code 108.

In this case, the County alleges that on September 11, 2014, respondent violated Section 21(p)(1), 21(p)(3), 21(p)(5), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), 21(p)(5), and (p)(7) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, proliferation of disease vectors, and deposition of general or clean construction debris. The County asks the Board to impose the statutory \$1,500 civil penalty per violation for the violations of Section 21(p)(5) and \$3,000 per violation for the other three violations on respondent, for a total civil penalty of \$10,500. As required, the County served respondent with the administrative citation on October 24, 2014, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2012); *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) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by November 28, 2014. Respondent

failed to timely file a petition. Accordingly, the Board finds that respondent violated Section 21(p)(1), 21(p)(3), 21(p)(5), and 21(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) (2012); 35 Ill. Adm. Code 108.500(a). There are four violation of Section 21(p): 1) one violation of Section 21(p)(5), which is subject to \$1,500 as a first violation and; 2) \$3,000 for a second or subsequent adjudicated violation of Sections 21(p)(1), 21(p)(3), and 21(p)(7) (County of Jackson v. Christopher Will, AC 13-31 (July 25, 2013)), the total civil penalty is \$10,500. 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 Christopher Will (respondent) violated Section 21(p)(1), 21(p)(3), 21(p)(5), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), 21(p)(5), and (p)(7) (2012)).
2. Respondent must pay a total civil penalty of \$10,500 no later than January 20, 2015, which is the first business day following the 30th day after the date of this order. Respondent must pay the civil penalty by certified check with \$5,250 to: County of Jackson and \$5,250 to the Illinois Environmental Protection Agency. The case number, case name, and respondent's social security numbers or federal employer identification numbers must be included on the certified check.
3. Respondent must send the certified checks and the remittance forms to:
 

Shirley Dillinger Booker  
Jackson County Treasurer  
Jackson County Courthouse  
Murphysboro, Illinois 62274

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) (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 violation continues.

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 December 18, 2014, by a vote of 4-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

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

**RECEIVED**  
CLERK'S OFFICE

OCT 8 1 2014

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON,                    )  
  )  
                  Complainant,            )  
  )  
v.    )  
  )  
CHRISTOPHER WILL,                    )  
  )  
  )  
                  Respondent.            )

AC 15 - 20  
Site Code: 077 812 5014

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.*, specifically 415 ILCS 5/31.1.

**FACTS**

1. The Respondent, Christopher Will, is the present owner, occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.
2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 077 812 5014. The facility is known to the agency as the Pomona/Christopher Will site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all material times hereto.
4. On September 11, 2014, Don Terry, Field Inspector, Jackson County Health Department, and Phillip Pierce-Savoie, Environmental Protection Specialist, Illinois Environmental Protection Agency, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's affidavit, are attached and incorporated herein by reference as Exhibit A.

5. On July 25, 2013 this Board adopted its final opinion and order in Docket No. AC 13-31 in a case involving this Respondent and this site.

6. In Docket No. AC 13-31 the Respondent was found to have violated Sections 21(p)(1), (p)(2), (p)(3) and (p)(7).

### **VIOLATIONS**

On the basis of Field Inspector Don Terry's direct observation he has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on September 11, 2014, an inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

2. The Respondent has caused or allowed open burning at the facility in violation of 415 ILCS 5/21(p)(3).

3. The Respondent has caused or allowed the proliferation of disease vectors at the facility in violation of 415 ILCS 5/21(p)(5).

4. The Respondent has caused or allowed the deposition of general or clean construction or demolition debris at the facility in violation of 415 ILCS 5/21(p)(7).

### **CIVIL PENALTY**

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the Section 5/21(p)(5) violation; and Three Thousand Dollars (\$3,000.00) each for the other three violations identified above (being second, subsequent violations), for a total of TEN THOUSAND FIVE HUNDERD DOLLARS (\$10,500.00). If the Respondent elects not to petition the Illinois Pollution Control

Board, the statutory civil penalty specified above shall be due and payable no later than December 15, 2014, unless otherwise provided by order of the Illinois Pollution Control Board.

If the Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1, and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. The hearing costs shall be assessed in addition to the statutory civil penalties for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1), if the Respondent fails to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalties specified above.

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

- (1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and
- (2) 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.

Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment. If any civil penalty and/or

hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Complainant may either initiate proceedings against the Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

#### **PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION**

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall also be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor, Murphysboro, Il 62966. **YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. YOUR PETITION MUST STATE THE REASON(S) YOU BELIEVE THE PRESENT MATTER SHOULD NOT BE ISSUED. IF YOU FAIL TO FILE YOUR PETITION AND STATE THE REASONS THE PRESENT MATTER SHOULD NOT BE ISSUED, A DEFAULT ORDER AGAINST YOU WILL BE ENTERED BY THE POLLUTION CONTROL BOARD.**

Your original Petition must be filed with the Clerk of the Board at:

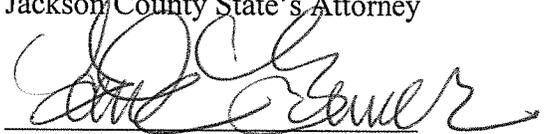
Clerk  
Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney  
Daniel Brenner  
Assistant State's Attorney  
Jackson County Courthouse, 3<sup>rd</sup> Floor  
Murphysboro, Il 62966

Dated: Oct. 7, 2014.

MICHAEL C. CARR  
Jackson County State's Attorney

A handwritten signature in black ink, appearing to read "Daniel Brenner", written over a horizontal line.

DANIEL BRENNER  
Assistant State's Attorney  
Jackson County, Illinois

REMITTANCE FORM TO COUNTY OF JACKSON

RECEIVED  
CLERK'S OFFICE

OCT 31 2014

STATE OF ILLINOIS  
Pollution Control Board

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Respondent. )

AC15 - 20  
Site Code: 077 812 5014

FACILITY: Pomona/Christopher Will Site

COUNTY: JACKSON

DATE OF INSPECTION: September 11, 2014

SITE CODE: 077 812 5014

Date Remitted: \_\_\_\_\_, 2014

SS or FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

**NOTE**

Please include the information on the blank lines. Mail this form with your check to:

Jackson County Treasurer  
Jackson County Courthouse  
Murphysboro, Illinois, 62966

REMITTANCE FORM TO ILLINOIS EPA

RECEIVED  
CLERK'S OFFICE

OCT 31 2014

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
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DATE OF INSPECTION: September 11, 2014

SITE CODE: 077 812 5014

Date Remitted: \_\_\_\_\_, 2014

SS or FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

NOTE

Please enter the date of your remittance, social security number, if an individual, or Federal Employer Identification Number (FEIN) if a corporation, and sign the remittance form. Be sure the appropriate check is enclosed and mail, along with this remittance form, to Illinois Environmental Protection Agency, Attn: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.