

ILLINOIS POLLUTION CONTROL BOARD
February 4, 2016

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 15-26
)	(IEPA No. 434-14-ac)
JOSEPH DEROSA & GWEN A. GRIFFITTS,)	(Administrative Citation)
and DEROSA AUTOBODY,)	
)	
Respondents.)	

SCOTT B. SIEVERS, ATTORNEY, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY; AND

JOSEPH DEROSA AND GWEN A. GRIFFITTS APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by G.M. Keenan):

On January 2, 2015, The Illinois Environmental Protection Agency filed an administrative citation against Joseph DeRosa, Gwen A. Griffiths, and DeRosa Autobody (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2014); 24 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' property at 2235 E. Ash Street, Springfield, Sangamon County. The Agency refers to the property as the "Springfield/DeRosa Autobody" site. It is designated with Site Code No. 1671209146.

The Board held a hearing on September 9, 2015 in Springfield. On November 19, 2015, we found that the respondents violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act. *See* 415 ILCS 5/21(p)(1), 5/55(k)(1) (2014). The civil penalty in an administrative citation for each violation of those sections is \$1,500 for a first violation. Therefore, we found the respondents liable for a \$3,000 penalty.

Having been found in violation of the Act, the respondents are also liable for the hearing costs of the Board and Agency. 415 ILCS 5/24(b)(4)-(5) (2014). The Clerk of the Board submitted an affidavit of the Board's hearing costs on November 23, 2015. The Board's costs were \$489.25. The Agency filed a statement of its hearing costs on December 17, 2015; the Agency incurred no costs. The Clerk served this documentation on the respondents, who did not file a response. *See* 35 Ill. Adm. Code 108.502-108.506.

The Board finds these hearing costs reasonable and orders the respondent to pay them. *See* 415 ILCS 5/42(b)(4)-(5) (2014). We incorporate by reference the findings of fact and conclusions of law reached in the November 19, 2015 interim opinion and order. Under Section

31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2014)), we attach the administrative citation and make it part of this final order.

This opinion constitutes our findings of fact and conclusions of law.

ORDER

1. The Board finds that Joseph DeRosa, Gwen A. Griffiths, and DeRosa Autobody (collectively, respondents) violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 55(k)(1) (2014).
2. The Board assesses the statutory civil penalty of \$3,000 for the violations and \$489.25 for hearing costs for a total penalty of \$3,489.25. Respondents must pay \$3,489.25 no later than March 21, 2016, which is the first business day following the 45th day after the date of this order. Respondents must pay this amount by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and a Respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Respondents must send the certified check or money order to:

Illinois Environmental Protection Agency
Attn: Fiscal Services
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 Act (415 ILCS 5/42(g) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the 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) (2014); *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 order on February 4, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 15 2015

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.)
)
 JOSEPH DEROSA & GWEN A. GRIFFITTS)
 and DEROSA AUTOBODY,)
)
 Respondents.)

AC 15-26
 (IEPA No. 434-14-AC)

STATE OF ILLINOIS
Pollution Control Board

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2014).

FACTS

1. That Joseph DeRosa & Gwen A. Griffitts are the current property owners and DeRosa Autobody is the current operator (collectively "Respondents") of a facility located at 2235 E. Ash Street, Springfield, Sangamon County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Springfield/DeRosa Autobody.
2. That said facility is designated with Site Code No. 1671209146.
3. That Respondents have owned/operated said facility at all times pertinent hereto.
4. That on December 2, 2014 Charlie King of the Illinois Environmental Protection Agency's ("Illinois EPA") Springfield Regional Office inspected the above-described facility. A copy of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 12-31-14, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 5714 - Gwen Griffiths ^{Joseph DeRosa}
7012 0470 0001 3000 5721 - DeRosa Autobody

VIOLATIONS

Based upon direct observations made by Charlie King during the course of the December 2, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2014).
- (2) That Respondents caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2014).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than February 13, 2015, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2014), and if the Illinois

Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2014), if Respondents fail 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 penalty specified above.

When payment is made, Respondent's check shall be made payable to 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. Along with payment, Respondents shall complete and return the enclosed Remittance Form 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 Respondents from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2014). If Respondents elect to contest this Administrative Citation, then Respondents shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondents.

Lisa Bonnett ^{KMP}

Date:

12-31-14

Lisa Bonnett, Director
Illinois Environmental Protection Agency

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

JAN 02 2015

STATE OF ILLINOIS
Pollution Control Board

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 (IEPA No. 434-14-AC)

FACILITY: Springfield/DeRosa Autobody
 SITE CODE NO.: 1671209146
 COUNTY: Sangamon
 CIVIL PENALTY: \$3,000
 DATE OF INSPECTION: December 2, 2014

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

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