

ILLINOIS POLLUTION CONTROL BOARD
March 17, 2016

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 2015-024
)	(IEPA No. 407-14)
SEAN’S TAP, INC.,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On December 18, 2014, the Illinois Environmental Protection Agency timely filed an administrative citation against Sean’s Tap, Inc. The Board accepted Sean’s Tap’s petition to contest the administrative citation on January 8, 2015. On March 9, 2016, the parties filed a stipulation of settlement and dismissal. In this order, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action.

The Agency alleged that Sean’s Tap violated Sections 21(p)(1), 21(p)(3), 21(p)(4), and 21(p)(7) of the Environmental Protection Act (Act) by causing or allowing open dumping resulting in litter, open burning, deposition of waste in standing or flowing waters, and resulting in deposition of construction or demolition debris. Administrative Citation (AC) at 2; 415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7) (2014). The violations allegedly took place at Sean’s Tap’s open dump located at 1030 East Linn Street, in Canton, Fulton County. AC at 1. The property is known to the Agency as “Josie’s tap” and is designated Site Code No. 0570255225. *Id.*

Sean’s Tap admits that it violated Section 21(p)(1) of the Act by causing or allowing open dumping resulting in litter, and agrees to pay the statutory civil penalty of \$1,500.00 for this violation. 415 ILCS 5/21(p)(1) (2014); Stipulation (Stip.) at 2. In the proposed settlement, Sean’s Tap agrees to three additional things: to dismiss its petition contesting the administrative citation; to pay the statutory civil penalty within 30 days from the date of the Board’s order accepting this stipulation; and to diligently comply with, and cease and desist from further violations of the Act and the Board’s rules and regulations. Stip. at 2-3. The violations observed during the November 5, 2014 inspection are not continuing at this time. *Id.* The Agency agrees to not refer the violations, subject of this administration citation, to the Office of the Illinois Attorney General or any other prosecuting authority for the initiation of a civil enforcement action. *Id.* at 3.

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act, the Board finds that Sean’s Tap violated Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1), 31.1(d) (2014). The Board assesses a civil penalty of \$1,500 for this violation under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2014). To effectuate the parties’ intent

that Sean's Tap pay a total civil penalty of \$1,500, the Board dismisses the violations of Sections 21(p)(3), 21(p)(4), and 21(p)(7) of the Act.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Sean's Tap violated Section 21(p)(1) of the Environmental Protection Act. 415 ILCS 5/21(p)(1) (2014).
3. Sean's Tap must pay a civil penalty of \$1,500.00 no later than April 18, 2016, which is the first business day following the 30th day after the date of this order. Sean's Tap 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 Sean's Tap's federal employer identification number or federal tax identification number must be included on the certified check.
4. Sean's Tap must send the certified check to:

Illinois Environmental Protection Agency
Fiscal Services Division
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 at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 415 ILCS 5/42(g) (2014); 35 ILCS 5/1003(a) (2014).
6. The Board dismisses the alleged violations of Section 21(p)(3), 21(p)(4), and 21(p)(7) of the Environmental Protection Act and Sean Tap's petition to contest the administrative citation. 415 ILCS 5/21(p)(3), 5/21(p)(4), 5/21(p)(7) (2014).

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) (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 opinion and order on March 17, 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 stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
DEC 18 2014
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
v.) AC 15-24
SEAN'S TAP, INC.,) (IEPA No. 407-14-AC)
Respondent.)

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 Sean's Tap Inc. is the current owner ("Respondent") of a facility located at 1030 East Linn Street, Canton, Fulton County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Josie's Tap.
2. That said facility is designated with Site Code No. 0570255225..
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on November 5, 2014 Robert J. Wagner of the Illinois Environmental Protection Agency's ("Illinois EPA") Peoria Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.
5. That on 12-15-14, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 5493.

VIOLATIONS

Based upon direct observations made by Robert J. Wagner during the course of his November 5, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent 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 Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2014).

- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of standing or flowing waters open burning, a violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2014).

- (4) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2014).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondent is 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 Six Thousand Dollars (\$6,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due

and payable no later than January 15, 2015, unless otherwise provided by order of the Illinois Pollution Control Board.

If 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 (2014), 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. 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 Respondent fails to petition or elects 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, Respondent 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 Respondent 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 Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has 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 Respondent elects to contest this Administrative Citation, then Respondent 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 Respondent.

Lisa Bonnett ^{WRE}

Date:

12-12-14

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

DEC 18 2014

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
SEAN'S TAP, INC.,)
Respondent.)

AC 15-24
(IEPA No. 407-14-AC)

FACILITY: Josie's Tap
SITE CODE NO.: 0570255225
COUNTY: Fulton
CIVIL PENALTY: \$6,000.00
DATE OF INSPECTION: November 5, 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.