

ILLINOIS POLLUTION CONTROL BOARD  
November 17, 2016

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 16-7
	)	(IEPA No. 344-15-AC)
JAMES REICHERT LIMITED FAMILY	)	(Administrative Citation)
PARTNERSHIP,	)	
	)	
Respondent.	)	

MICHELLE M. RYAN APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY; and

RONALD E. OSMAN APPEARED ON BEHALF OF JAMES REICHERT LIMITED FAMILY PARTNERSHIP.

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

On September 22, 2016, the Board issued an interim opinion and order, finding that James Reichert Limited Family Partnership (Reichert) violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2014). The case concerns a site located at 1406 Cornell Street in Marion, Williamson County.

In the September 22, 2016 decision, after the Board found the violations, the Board held that under Section 42(b)(4-5) of the Act, Reichert was subject to the statutorily-fixed \$4,500 civil penalty. 415 ILCS 5/42(b)(4-5) (2014). In addition, the Board held that Reichert, by unsuccessfully contesting the administrative citation at hearing, also must pay the hearing costs of the Board and the Illinois Environmental Protection Agency (IEPA). The hearing in this case was held on June 8, 2016 in Marion.

The Board directed IEPA and the Clerk of the Board each to file documentation of the respective hearing costs, supported by affidavit, and to serve the filing on Reichert. The Board also gave Reichert an opportunity to respond to the requests for hearing costs and noted that after the time periods for these filings had expired, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On October 3, 2016, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$516.75, which reflect the costs of court reporting. On October 20, 2016, the Board received IEPA's statement of hearing costs, supported by affidavit, which IEPA served on Reichert. The IEPA's hearing costs total \$135.44, consisting of mileage fees from Springfield to Marion and copying/clerical/mailing fees. Reichert filed his response on November 9, 2016. In

his response, Reichert did not object to the costs listed by both IEPA's statement of hearing costs and the Clerk's affidavit. *See* 35 Ill. Adm. Code 108.502-108.506.

The Board finds the hearing costs of IEPA and the Board reasonable and below orders Reichert to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2014). The Board incorporates by reference the findings of fact and conclusions of law from its September 22, 2016 interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order. 415 ILCS 5/31.1(d)(2) (2014).

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

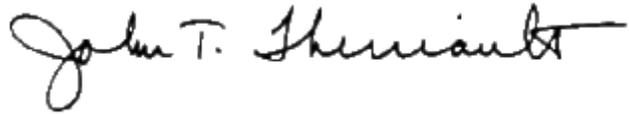
### **ORDER**

1. The Board finds that James Reichert Limited Family Partnership violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act. 415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2014).
2. The Board assesses the statutory civil penalty of \$4,500 for the violation, as well as hearing costs totaling \$652.19, for a total amount due of \$5,152.19. Reichert must pay \$5,152.19 no later than January 3, 2017, which is the first Board business day following the 45th day after the date of this order. Reichert 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 James Reichert Limited Family Partnership's social security number or federal employer identification number must be included on the certified check or money order.
3. Reichert 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 Environmental Protection Act at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)). 415 ILCS 5/42(g) (2014).
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) (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 November 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 flourish extending to the right.

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John T. Therriault, Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE  
DEC 18 2015

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
JAMES REICHERT LIMITED FAMILY )  
PARTNERSHIP, )  
 )  
 )  
Respondents. )

AC 16-1  
(IEPA No. 344-15 -AC)

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 James Reichert Limited Family Partnership, are the current owners ("Respondents") of a property located at 1406 Cornell Street, Marion, Williamson County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Reichert, James LFP-Cornell St.

2. That said facility is designated with Site Code No. 1990555290.

3. That Respondents have owned said facility at all times pertinent hereto.

4. That on November 4, 2015, Maggie Stevenson of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion 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 12-10-15, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 6674 - Reichert  
7012 0470 0001 3000 6667 - Whitson

#### VIOLATIONS

Based upon direct observations made by Maggie Stevenson during the course of the November 4, 2015 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 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 Respondents 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), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 January 15, 2016, 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, Respondents' 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  
by HR

Date:

12-11-15

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 2015  
STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
v. )  
JAMES REICHERT LIMITED FAMILY )  
PARTNERSHIP, )  
Respondents. )

AC 16-7  
(IEPA No. 344-15-AC)

FACILITY: Reichert, James LFP-Cornell St.  
SITE CODE NO.: 1990555290  
COUNTY: Williamson  
CIVIL PENALTY: \$4,500.00  
DATE OF INSPECTION: November 4, 2015

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.