

ILLINOIS POLLUTION CONTROL BOARD

December 15, 2016

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 16-2
	)	(IEPA No. 306-15-AC)
DAN PITNEY,	)	(Administrative Citation)
	)	
Respondent.	)	
	)	

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

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (“Illinois EPA”) timely filed an administrative citation on October 2, 2015 against Mr. Dan Pitney. Illinois EPA alleged that on August 20, 2015, Mr. Pitney violated Sections 21(p) and 55(k) of the Environmental Protection Act (“Act”) (415 ILCS 5/21(p)(1), 55(k) (2014)) by (1) causing or allowing the open dumping of waste in a manner resulting in litter and (2) causing or allowing water to accumulate in used or waste tires. The violations allegedly took place at property that Mr. Pitney operates at 1431 Camp Elwood Road in Rockford, Winnebago County. The property is commonly known to the Illinois EPA as the “Rockford/Olbrich” site and is designated with Site Code No. 2010306760.

Mr. Pitney timely filed a petition to contest the administrative citation, which the Board accepted on December 17, 2015. On December 8, 2016, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review.” Under its terms, Mr. Pitney admits that he violated Section 55(k) of the Act (415 ILCS 5/55(k) (2014)) by allowing the accumulation of water in used tires. Mr. Pitney does not admit that he violated Section 21(p) of the Act. Mr. Pitney agrees to pay the statutory civil penalty of \$1,500 for the single admitted violation. Stipulation at 2. The civil penalty shall be paid in \$300 installments, beginning 30 days from the date of the Board’s order accepting the stipulation and continuing monthly until paid in full. *Id.* The stipulation does not specify manner of payment, so the Board requires payment in a manner typical in prior settlements of administrative citations with Illinois EPA. Mr. Pitney also agrees to the dismissal of his petition contesting the administrative citation. *Id.* at 3. The stipulation further states that Mr. Pitney agrees to diligently comply with and shall cease and desist from further violation of the Act and the Board’s regulations. *Id.* at 2. In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.* at 2-3.

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2014)), the Board therefore finds that Mr. Pitney violated Section 55(k) of the Act (415 ILCS 5/55(k) (2014)). Section 42(b) (4-5) of the Act (415 ILCS 5/42(b)(4-5) (2014)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that Mr. Pitney pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Sections 21(p) of the Act (415 ILCS 5/21(p) (1) (2014)).

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 Mr. Pitney violated Section 55(k) of the Environmental Protection Act (415 ILCS 5/55(k) (2014)).
3. Mr. Pitney must pay a civil penalty of \$1,500 in \$300 installments, beginning January 16, 2017, which is the first business day after 30 days from the date of this order. The installment payments shall continue monthly until the \$1,500 penalty has been paid in full. In the event that a payment is late or missed, the entire balance will become immediately due.
4. Mr. Pitney must pay each installment of the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and Mr. Pitney's social security number must appear on the face of the certified check or money order.
5. Mr. Pitney must send each certified check or money order to:  
  
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection 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)).
7. The Board dismisses the alleged violation Sections 21(p) of the Environmental Protection Act (415 ILCS 5/21(p), 55(k) (2014)) and Mr. Pitney's petition to contest the administrative citation.

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 December 15, 2016, by a vote of 4-0, Member Santos voted Present.

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