

ILLINOIS POLLUTION CONTROL BOARD
December 15, 2016

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 16-5
)	(IEPA No. 333-15-AC)
RONALD W. AND SUSAN A. FALMIER,)	(Administrative Citation)
)	
Respondents.)	

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

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 November 6, 2015 against Ronald W. and Susan A. Falmier (Falmiers). Illinois EPA alleged that on September 24, 2015, the Falmiers violated Sections 21(p)(1), 21(p)(3), 21(p)(5), and 55(k) of the Environmental Protection Act (“Act”) by causing or allowing: (1) the open dumping of waste in a manner resulting in litter; (2) the open dumping of waste in a manner resulting in open burning; (3) the open dumping of waste in a manner resulting in proliferation of disease vectors; and (4) water to accumulate in used or waste tires. 415 ILCS 5/21(p)(1), (p)(3), (p)(5), and 55(k) (2014). The violations allegedly took place at property that the Falmiers own at 206 Powell Road in Carterville, Williamson County. The property is commonly known to the Illinois EPA as “Falmier’s Auto Salvage & Towing” and is designated with Site Code No. 1990155032.

The Falmiers timely filed an amended petition to contest the administrative citation, which the Board accepted on February 4, 2016. On December 8, 2016, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review” (Stip.). Under its terms, the Falmiers admit to violating Section 55(k) of the Act by allowing the accumulation of water in used tires. 415 ILCS 5/55(k) (2014). The Falmiers do not admit to the violations of Section 21(p) of the Act, but agree to pay the statutory civil penalty of \$1,500 for the single admitted violation. Stip. at 2. The stipulation does not specify a manner of payment, so the Board requires payment in a manner typical of administrative citations with Illinois EPA. The Falmiers agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. In addition, the Falmiers agree to diligently comply with and to cease and desist from further violation of the Act and the Board’s regulations. *Id.* at 2. In addition, the Illinois EPA 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 3.

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act, the Board finds that the Falmiers violated Section 55(k) of the Act. 415 ILCS 5/31.1(d),

55(k) (2014). Section 42(b) (4-5) of the Act establishes a civil penalty of \$1,500 for this violation. 415 ILCS 5/42(b)(4-5) (2014). The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that the Falmiers pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Sections 21(p) of the Act. 415 ILCS 5/21(p) (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 Ronald W. and Susan A. Falmier (Falmiers) violated Section 55(k) of the Environmental Protection Act. 415 ILCS 5/55(k) (2014).
3. The Falmiers must pay a civil penalty of \$1,500 by January 17, 2017, which is the first business day after 30 days from the date of this order.
4. The Falmiers must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and Ronald W. and Susan A. Falmier's individual social security numbers must appear on the face of the certified check or money order.
4. The Falmiers 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
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 Sections 21(p) of the Environmental Protection Act and the Falmiers' petition to contest the administrative citation. 415 ILCS 5/21(p) (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 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.

John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
NOV - 6 2015

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
RONALD W. & SUSAN A. FALMIER,)
Respondents.)

AC 16-5
(IEPA No. 333-15-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 Ronald W. & Susan A. Falmier are the current owners ("Respondents") of a property located at 206 Powell Road, Carterville, Williamson County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Falmier's Auto Salvage & Towing.
2. That said facility is designated with Site Code No. 1990155032.
3. That Respondents have owned said facility at all times pertinent hereto.
4. That on September 24, 2015 Garrison Gross of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion 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 10-30-15, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 6575.

VIOLATIONS

Based upon direct observations made by Garrison Gross during the course of his September 24, 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 proliferation of disease vectors, a violation of Section 21(p)(5) of the Act, 415 ILCS 5/21(p)(5) (2014).
- (4) 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 Six Thousand Dollars (\$6,000.00). 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 December 1, 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, 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 Hw

Date:

10-29-15

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

NOV - 6 2015

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
RONALD W. & SUSAN A. FALMIER,)
Respondents.)

AC 16-5
(IEPA No. 333-15-AC)

FACILITY: Falmier's Auto Salvage & Towing
SITE CODE NO.: 1990155032
COUNTY: Williamson
CIVIL PENALTY: \$6,000.00
DATE OF INSPECTION: September 24, 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.