

ILLINOIS POLLUTION CONTROL BOARD
June 22, 2017

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 17-16
)	(IEPA No. 56-17-AC)
ARCHIE ADKINSON and)	(Administrative Citation)
JULES KRAMER,)	
)	
Respondents.)	

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

On May 2, 2017, the Illinois Environmental Protection Agency (“Illinois EPA”) filed an administrative citation against Archie Adkinson and Jules Kramer (collectively, “respondents”). *See* 415 ILCS 45/31.1 (2016); 35 Ill. Adm. Code 108. The administrative citation concerns property located at 23544 E. Cypress Road in Canton, Fulton County. The property is commonly known to the Illinois EPA as the “Canton Twp/Adkinson, Archie” site and is designated with Site Code No. 0578045005. Illinois EPA alleged that Archie Adkinson is the present owner of the property and Jules Kramer currently occupies the property.

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Illinois EPA or, if the Illinois EPA has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2016); 35 Ill. Adm. Code 108. In this case, Illinois EPA alleged that respondents 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) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and deposition of general or clean construction or demolition debris.

Illinois EPA alleged that the violations were observed on March 7, 2017. The Act requires that a respondent be served with the administrative citation within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2016); *see also* 35 Ill. Adm. Code 108.202(b). Illinois EPA has not shown that it served Jules Kramer with the administrative citation within 60 days after March 7, 2017. The Board dismisses the administrative citation as to Jules Kramer. *See* 35 Ill. Adm. Code 108.402. However, Illinois EPA filed proof that it served Archie Adkinson with the administrative citation within 60 days after March 7, 2017—specifically, on May 5, 2017. The Board does not dismiss the administrative citation as to Archie Adkinson.

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If a respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2016); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due June 9, 2017. Archie Adkinson failed to timely file a petition. Accordingly, the Board finds that Archie Adkinson violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2016)).

The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. 415 ILCS 5/42(b)(4-5) (2016); 35 Ill. Adm. Code 108.500(a). Because there are three violations and no indication in the record that these are second or subsequent adjudicated violations, the total civil penalty is \$4,500. Under Section 31.1(d)(1) of the Act (415 ILCS 5/31.1(d)(1) (2016)), the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

1. The Board dismisses the administrative citation as to Jules Kramer.
2. The Board finds that Archie Adkinson 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) (2016)).
3. Archie Adkinson must pay a civil penalty of \$4,500 no later than July 23, 2017, which is the first business day following the 30th day after the date of this order. Archie Adkinson 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 Archie Adkinson's social security number must be included on the certified check or money order.
4. Archie Adkinson must send the certified check or money order and the remittance form to:

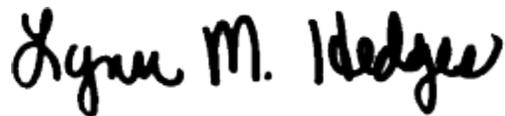
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/24(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
6. 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) (2016); *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, Lynn Hedges, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 22, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Lynn M. Hedges". The signature is written in a cursive, flowing style.

Lynn Hedges, Acting Clerk
Illinois Pollution Control Board