

ILLINOIS POLLUTION CONTROL BOARD  
September 6, 2018

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 19-1
	)	(IEPA No. 78-18-AC)
WILLIAM and ROSE ROBINSON,	)	(Administrative Citation)
	)	
Respondents.	)	

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

On July 2, 2018, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against William and Rose Robinson. *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(c), 108.200(b). The administrative citation concerns the Robinsons' open dump facility located at 495 65th Street in Roseville, Warren County. The property is commonly known to the Agency as the "Robinson, William & Rose" site and is designated with Site Code No. 1878130002. For the reasons below, the Board finds that William and Rose Robinson violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders them to pay \$6,000 in civil penalties.

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 Agency or, if the Agency 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, the Agency alleges that its inspector observed six violations of the Act by William and Rose Robinson on May 22, 2018. First, the Agency alleges that the Robinsons violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1)) by open dumping waste in a manner resulting in litter. Second, the Agency alleges that they violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3)) by open dumping waste in a manner resulting in open burning. Third, the Agency alleges that the Robinsons violated Section 21(p)(7) of the Act (415 ILCS 5/21(p)(7)) by open dumping waste in a manner resulting in deposition of general or clean construction or demolition debris. Fourth, the Agency alleges that they violated Section 55(a)(1) of the Act (415 ILCS 5/55(a)(1)) by open dumping used or waste tires. Fifth, the Agency alleges that they violated Section 55(a)(2) of the Act (415 ILCS 5/55(a)(2)) by open burning used or waste tires. And sixth, the Agency alleges that the Robinsons violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1)) by causing or allowing the accumulation of water in used or waste tires.

The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on William and Rose Robinson, for a total civil penalty of \$9,000. As required, the Agency served

the Robinsons with the administrative citation on July 12, 2018, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2016); *see also* 35 Ill. Adm. Code 101.300(c), 108.200(b)(1).

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. Here, any petition for review was due by August 16, 2018. William and Rose Robinson failed to timely file a petition.

Generally, if the respondent fails to timely file a petition for review, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. As noted above, however, administrative citations may only be filed for limited types of alleged violations. *See* 415 ILCS 5/31.1(a), (b) (2016). The Agency alleges violations of Sections 55(a)(1) and (a)(2) of the Act (415 ILCS 5/55(a)(1), (a)(2) (2016)), but neither are included among the types of allegations eligible for enforcement by administrative citation under Section 31.1 of the Act (415 ILCS 5/31.1 (2016)). *Id.* Accordingly, the Board finds that William and Rose Robinson violated Sections 21(p)(1), 21(p)(3), 21(p)(7), and 55(k)(1) of the Act.

The civil penalty for violating any provision of Section 21(p) or 55(k) is \$1,500 for each violation. *See* 415 ILCS 5/42(b)(4-5) (2016); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and one violation of Section 55(k), and there is no indication in the record that any of these is a second or subsequent violation, the total civil penalty is \$6,000. Under Section 31.1(d)(1) of the Act, 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 finds that William and Rose Robinson violated Sections 21(p)(1), 21(p)(3), 21(p)(7), and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7), and 55(k)(1) (2016)).
2. William and Rose Robinson must pay a civil penalty of \$6,000 no later than October 9, 2018, which is the first business day following the 30th day after the date of this order. The Robinsons 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 William and Rose Robinson’s respective social security numbers must be included on the certified check or money order.
3. William and Rose Robinson 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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
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) (2010); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Environmental Protection Agency Attn: Michelle M. Ryan 1021 North Grand Ave. East Springfield, Illinois 62794 Michelle.Ryan@illinois.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
William and Rose Robinson 490 North Jefferson Roseville, Illinois 61473	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 6, 2018, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board