

ILLINOIS POLLUTION CONTROL BOARD

October 4, 2018

COUNTY OF LASALLE,)	
)	
Complainant,)	
)	
v.)	AC 19-2
)	(Administrative Citation)
JEFFREY SCHUSTER,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

On August 20, 2018, the County of LaSalle (County) timely filed an administrative citation against Jeffrey Schuster. See 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.200(b). The administrative citation concerns Mr. Schuster’s property located at 290 North 35th Road in Dimmick Township, LaSalle County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “Schuster Property” and is designated with Site Code No. 0998295005. For the reasons below, the Board finds that Mr. Schuster violated Sections 21(p)(1) and (p)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(2) (2016)) and orders Mr. Schuster to pay \$3,000 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 County alleges that on August 10, 2018, Mr. Schuster violated Section 21(p)(1) and (p)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(2) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter and scavenging. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on Mr. Schuster, for a total civil penalty of \$3,000. As required, the County served Mr. Schuster with the administrative citation on August 15, 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)(1), 108.200(b).

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 the respondent fails to do so, 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(c), 108.204(b), 108.406. Here, any petition for review was due by September 19, 2018. Mr. Schuster failed to timely file a petition. Accordingly, the Board finds that Mr. Schuster violated Sections 21(p)(1) and (p)(2) of the Act.

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. *See* 415 ILCS 5/42(b)(4-5) (2016); 35 Ill. Adm. Code 108.500(a)(1). Because there is no indication in the record that either of these is a second or subsequent adjudicated violation, the total civil penalty is \$3,000. 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 Mr. Schuster violated Sections 21(p)(1) and (p)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(2) (2016)).
2. Mr. Schuster must pay a civil penalty of \$3,000 no later than November 5, 2018, which is the first business day following the 30th day after the date of this order. Mr. Schuster must pay the civil penalty by two certified checks or money orders (\$1,500 each), one made payable to LaSalle County Department of Environmental Services and Land Use¹ and one made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Schuster's social security number must be included on each of the two certified checks or money orders.
3. Mr. Schuster must send the certified checks or money orders and the remittance form to:

LaSalle County Department of Environmental Services and Land Use
119 West Madison Street
Room 107a
Ottawa, Illinois 61350

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

¹ Consistent with Section 42(b)(4-5) of the Environmental Protection Act (415 ILCS 5/42(b)(4-5) (2016)), when a local government issues the administrative citation, 50% of the total civil penalty is to be made payable to the issuing unit of local government. The County mistakenly overlooked this requirement, as reflected on p. 2 of the administrative citation, by requesting one check made payable to LaSalle County Department of Environmental Services and Land Use for the total penalty of \$3000.

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) (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. 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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
LaSalle County State's Attorney Office Attn: Mark Anderson 707 Etna Road, Suite 251 Ottawa, IL 61350	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Jeffrey Schuster 290 North 35th Road LaSalle, IL 61301	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 4, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board