

ILLINOIS POLLUTION CONTROL BOARD
March 14, 2019

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 19-9
) (Site Code: 077 801 5043)
BRUCE REESE and BRYAN BRUCE,) (Administrative Citation)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by U. Choe):

On October 18, 2018, the County of Jackson (County) timely filed an administrative citation against Bruce Reese and Bryan Bruce (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' facility located at 2186 Dillinger Road in Carbondale, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the "Carbondale/Bruce Reese" site and is designated with Site Code No. 077 801 5043. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders respondents 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 September 27, 2018, respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2016)) by causing or allowing the open dumping of waste resulting in litter and deposition of general or clean construction debris or demolition debris at the facility. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on respondents, for a total civil penalty of \$3,000. As required by the Act, the County served respondents with the administrative citation on October 16, 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. 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(b), 108.204(b), 108.406. Here, any petition for review was due by November 20, 2018. Respondents failed to timely file a petition. Accordingly, the Board finds that respondents violated Sections 21(p)(1) and (p)(7) 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). Because there are two violations of Section 21(p) and no indication in the record that any 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 Bruce Reese and Bryan Bruce violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (7) (2016)).
2. Bruce Reese and Bryan Bruce must pay a civil penalty of \$3,000 no later than April 15, 2019, which is the first business day following the 30th day after the date of this order. Bruce Reese and Bryan Bruce must pay the civil penalty by certified check or money order, made payable in equal amounts (\$1,500) to the County of Jackson and the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security numbers must be included on the certified check or money order.
3. Bruce Reese and Brian Bruce must send the certified check or money order and the remittance form to:

County of Jackson, c/o Jackson County Treasurer
 Jackson County Courthouse
 Murphysboro, Illinois 62966

Illinois Environmental Protection Trust Fund
 Attn: 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) (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
Office of the State's Attorney Attn: Daniel Brenner Assistant State's Attorney Jackson County Courthouse, 3rd Floor Murphysboro, Illinois 62966	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Bruce Reese 2042 Dillinger Road Carbondale, Illinois 62901	
Bryan Bruce 2186 Dillinger Road Carbondale, Illinois 62901	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 14, 2019, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board