

ILLINOIS POLLUTION CONTROL BOARD
January 6, 2005

COUNTY OF SANGAMON,)	
)	
Complainant,)	
)	
v.)	AC 05-36
)	(SCDPH No. 04-AC-3)
LELAND COLE,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On November 9, 2004, the County of Sangamon timely filed an administrative citation against Leland Cole. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Sangamon alleged that on September 19, 2004, Leland Cole violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(3) (2002)). The County of Sangamon further alleges that Leland Cole violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; and (2) open burning at 6208 Reinder, Springfield, Sangamon County.

As required, the County of Sangamon served the administrative citation on Leland Cole within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(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 violation alleged and impose the corresponding civil penalty. 415 ILCS 5/31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on December 14, 2004. Leland Cole failed to timely file a petition. Accordingly, the Board finds that Leland Cole violated Section 21(p) of the Act.

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and these violations are first offenses, 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. Leland Cole must pay a civil penalty of \$3,000 no later than February 7, 2005, which is the first business day after the 30th day after the date of this order.

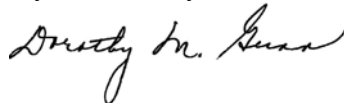
2. Leland Cole must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Leland Cole's social security number or federal employer identification number must be included on the certified check or money order.
3. Leland Cole must send the certified check or money order and the remittance form to:

James D. Stone, Director
Sangamon County Department of Public Health
2501 North Dirksen Parkway
Springfield, Illinois 62702
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 6, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board