

ILLINOIS POLLUTION CONTROL BOARD
March 15, 2007

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) AC 07-39
) (Administrative Citation)
 GARY EASTON,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On February 7, 2007, the County of Jackson (County) timely filed an administrative citation against Gary Easton (Easton). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site commonly known to the Illinois Environmental Protection Agency (Agency) as “Murphysboro/Easton Automotive,” designated with Site Code No. 0778140027, and located in Jackson County. For the reasons below, the Board finds that Easton violated the Environmental Protection Act (Act) (415 ILCS 5 (2004)) and orders him 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 at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2004); 35 Ill. Adm. Code 108.

In this case, the County alleges that Easton violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)) by causing or allowing the open dumping of waste in a manner resulting in litter. The Agency asks the Board to impose a \$3,000 civil penalty on Easton. As required, the County served the administrative citation on Easton within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *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 a respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2004); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on March 5, 2007. Easton failed to timely file a petition. Accordingly, the Board finds that Easton violated Section 21(p)(1) of the Act.

The civil penalty for violating any provision of subsection (p) of Section 21 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) (2004);

35 Ill. Adm. Code 108.500(a). Because the Board has previously found Easton in violation of Section 21(p)(1) (*see County of Jackson v. Gary Easton*, AC 04-44 (Mar. 18, 2004)), the total civil penalty today 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

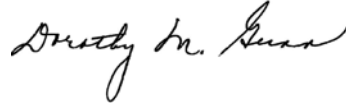
1. Easton must pay a civil penalty of \$3,000 no later than April 16, 2007, which is the first business day following the 30th day after the date of this order.
2. Easton must pay the civil penalty by certified check or money order, made payable to the Jackson County Treasurer Office. The case number, case name, and Easton's social security number or federal employer identification number must be included on the certified check or money order.
3. Easton must send the certified check or money order and the remittance form to:

Shirley Dillinger Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois, 62966
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

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) (2004); *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 March 15, 2007, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board