

ILLINOIS POLLUTION CONTROL BOARD

July 26, 2007

COUNTY OF VERMILION, )  
 )  
 Complainant, )  
 )  
 v. ) AC 07-69  
 ) (Administrative Citation)  
 ROBERT MARTIN, )  
 )  
 Respondent. )

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

On June 25, 2007, the County of Vermilion (County) timely filed an administrative citation against Robert Martin (respondent). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site commonly known as Belgium/Martin Property with Site Code No. 1830105003, and located at 27 Shaw Street, Belgium, Vermilion County. For the reasons below, the Board finds that respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders respondent 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 Illinois Environmental Protection Agency (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) (2006); 35 Ill. Adm. Code 108.

In this case, the County alleges that respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2006)) by operating an open dump resulting in litter and open burning. The County asks the Board to impose a \$3,000 civil penalty on respondent. As required, the County served the administrative citation on respondent within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *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) (2006); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on July 17, 2007. Respondent failed to timely file a petition. Accordingly, the Board finds that respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2006)).

The civil penalty for violating Section 21(p) is \$1,500 for each violation. 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(a). Because there are two violations, 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. Respondent must pay a civil penalty of \$3,000 no later than August 27, 2007, which is the first business day following the 30th day after the date of this order.
2. Respondent must pay the civil penalty by certified check or money order, made payable to the County of Vermilion.
3. Respondent must send the certified check or money order and the remittance form to:

Vermilion County Health Department  
200 South College Street  
Danville, Illinois 61832

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
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) (2006); *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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 26, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

COUNTY OF VERMILION, ILLINOIS, )

Complainant, )

v. )

ROBERT MARTIN, )

Respondent. )

AC No. 07-69

County File No. 07-01

**RECEIVED**  
CLERK'S OFFICE

**JUN 25 2007**

**STATE OF ILLINOIS**  
Pollution Control Board

**JURISDICTION**

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 4(e) and 31.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

**FACTS**

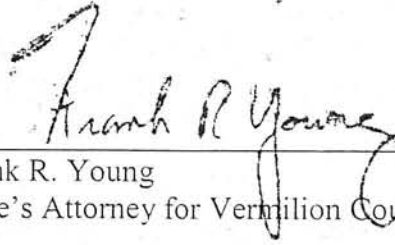
1. Respondent, Robert Martin, is, and was at all times relevant to this Administrative Citation, the owner of property located at 27 Shaw Street, Belgium, County of Vermilion, State of Illinois.
2. Said property was operated as an unlicensed open dump, and designated with Illinois Environmental Protection Agency Site Code No. 1830105003.
3. On April 24, 2007, Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of their inspection report are attached hereto and made a part hereof by reference.

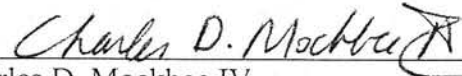
**VIOLATIONS**

On the basis of the direct observation of Douglas Toole, the County of Vermilion has determined that on April 24, 2007, Respondent was conducting an unlicensed open dump at the above-described address, which is required to have a permit pursuant to 415 ILCS 5/21(a) of the Act, in a manner which resulted in the following conditions:

- A. Open dumping resulting in litter was observed at the site, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...litter; and

Dated: 6/6/07

  
\_\_\_\_\_  
Frank R. Young  
State's Attorney for Vermilion County

By:   
\_\_\_\_\_  
Charles D. Mockbee IV  
Assistant State's Attorney

Prepared by:  
Charles D. Mockbee IV  
Office of the State's Attorney  
7 N. Vermilion St.  
Danville, IL 61832  
217-554-7750

**REMITTANCE FORM**

IN THE MATTER OF  
ROBERT MARTIN,

)  
)  
)  
)  
)  
Respondent )

AC No. 07-69  
County File No. 07-01

Facility/Property: 27 Shaw Street, Belgium, Illinois  
County: Vermilion  
Date of Inspection: April 24, 2007  
Site Code No.: 1830105003  
Civil Penalty: \$1500.00 for each violation = \$3000.00  
Date Remitted: \_\_\_\_\_  
SSN/FEIN No.: \_\_\_\_\_  
Signature: \_\_\_\_\_

**NOTE**

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the County of Vermilion, Illinois. Be sure your check is enclosed with this Remittance Form and mail to: Vermilion County Health Department, 200 S. College Street, Danville, Illinois 61832.