

ILLINOIS POLLUTION CONTROL BOARD
December 1, 2011

COUNTY OF PERRY,)
)
Complainant,)
)
v.) AC 12-7
) (Administrative Citation)
RONALD HAMMEL,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by T. A. Holbrook):

On October 19, 2011, the County of Perry (Perry County) timely filed an administrative citation against Ronald Hammel (Hammel). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Hammel’s open dump located at 457 State Route 51, DuQuoin, Perry County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “DuQuoin/Ronald Hammel” site and is designated with Site Code No. 1450105087. For the reasons below, the Board finds that Hammel violated the Environmental Protection Act (Act) (415 ILCS 5 (2010)) and orders the respondent to pay \$1,500 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) (2010); 35 Ill. Adm. Code 108.

In this case, Perry County alleges that, on August 23, 2011, Hammel violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2010)) by causing or allowing open dumping in manner resulting in litter at the facility. Perry County asks the Board to impose the statutory \$1,500 civil penalty per violation on Hammel, for a total civil penalty of \$1,500. As required, Perry County served the administrative citation on Hammel within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 101.300(c), 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. *See* 415 ILCS 31.1(d)(1) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by November 17, 2011. Respondent failed to timely file a petition. Accordingly, the Board finds that Hammel violated Section 21(p)(1) 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) (2010); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and there is no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500. 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 Ronald Hammel violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)).
2. Respondent must pay a civil penalty of \$1,500 no later than January 2, 2012, which is the first business day following the 30th day after the date of this order. Ronald Hammel must pay the civil penalty by two certified checks or money orders, made payable in equal amounts to the Perry County Solid Waste and to the Illinois Environmental Protection Agency for payment to the Illinois Environmental Protection Trust Fund. The case number, case name, and Hammel's social security number or federal employer identification number must be included on the certified checks or money orders.
3. Hammel must send a certified check or money order in the amount of \$750 accompanied by the remittance form to:

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

and

Hammel must also send a certified check or money order in the amount of \$750 accompanied by the remittance form to:

Perry County Solid Waste
c/o Perry County Treasurer
Perry County Government Building
3764 State Route 13/127
Pinckneyville, Illinois 62274

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate


set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).

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) (2010); *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 December 1, 2011, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 RONALD HAMMEL,)
)
 Respondent.)

AC 11

12-7

RECEIVED
CLERK'S OFFICE
OCT 19 2011
STATE OF ILLINOIS
Pollution Control Board
ORIGINAL

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. Seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Ronald Hammel, is the present owner; and is in control and possession of a facility located in the County of Perry, State of Illinois.
2. The facility is an open dump and designated with the Site Code #1450105087. The facility is known to the Agency as the DuQuoin/Ronald Hammel site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On August 23, 2011, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on August 23, 2011, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than January 2, 2012, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006), and if the Illinois Pollution Control Board issues a finding of violation(s) as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the Fifteen Hundred Dollars (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) Perry County Solid Waste, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Complainant may initiate proceedings against Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with David Searby, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. Your petition must state the reason(s) you believe the present matter should not be issued. If you fail to file your petition and state the reasons the present matter should not be issued, a default order against you will be entered by the Illinois Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk, Pollution Control Board, 100 West Randolph, Suite 11-500, Chicago, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, David Searby, Assistant State's Attorney, Perry County

Courthouse, Pinckneyville, IL 62274



David Searby, Assistant State's Attorney
Perry County, Illinois

DATE:

10-13-2011

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

RECEIVED
CLERK'S OFFICE

OCT 19 2011

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
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 Complainant,)
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 vs.)
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 RONALD HAMMEL,)
)
 Respondent.)

AC # 12-7

ORIGINAL

FACILITY: DuQuoin/Ronald Hammel

COUNTY: Perry

DATE OF INSPECTION: August 23, 2011

SITE CODE: 1450105087

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Perry County Solid Waste
c/o Perry County Treasurer
Perry County Government Building
3764 State Route 13/127
Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

OCT 19 2011

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 RONALD HAMMEL,)
)
 Respondent.)

AC 11-127

ORIGINAL

FACILITY: DuQuoin/Ronald Hammel

COUNTY: Perry

DATE OF INSPECTION: August 23, 2011

SITE CODE: 1450105087

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Illinois Environmental Protection Agency
Attention: Fiscal Services
PO Box 19276
Springfield, IL 62794-9276