

ILLINOIS POLLUTION CONTROL BOARD
March 15, 2012

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-23
)	(IEPA No.405-11-AC)
DALE GORDON SPRADLIN AND)	(Administrative Citation)
BARBARA J. SPRADLIN,)	
)	
Respondents.)	

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

On December 23, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Dale Gordon Spradlin and Barbara Spradlin (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the respondents' open dumping facility located at 37784 205th Street, R.R.2, 1050 N., Pittsfield, Pike County. The property is commonly known to the Agency as the "Martinsburg Township/Spradlin" site and is designated with Site Code No. 1498130002.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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, the Agency alleges that on November 3, 2011, respondent violated Sections 21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter, in open burning, in the deposition of waste in standing or flowing water, in the deposition of construction or demolition debris, and in used tires accumulating water at the Pike County site. The Agency asks the Board to impose on respondent the statutory \$1,500.00 civil penalty for each alleged violation, for a total civil penalty of \$7,500.00.

On January 9, 2012, the Agency filed a motion to dismiss Dale Gordon Spradlin because he had not been timely served. *See* 415 ICLS 5/31.1(b) (2010); 35 Ill. Adm. Code 108.202(b). On January 18, 2012, respondents filed a petition to contest the administrative citation. On February 2, 2012, the Board granted the Agency's motion to dismiss Dale Gordon Spradlin. In the same order, the Board directed Barbara Spradlin to file an amended petition curing specified deficiencies. IEPA v. Dale Gordon Spradlin and Barbara Spradlin, AC 12-23 (Feb. 2, 2012).

Today, the Board finds that Barbara Spradlin has defaulted because she has failed to submit an amended petition for review with the Board as directed in the February 2, 2012 order.

As required, the Agency served the administrative citation on Barbara Spradlin 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). Any petition to contest the administrative citation was due by February 13, 2012. On January 18, 2012, a petition was timely filed. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). The Board directed Barbara Spradlin to file an amended petition curing specified deficiencies by March 5, 2012. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). Barbara Spradlin failed to timely file an amended petition as directed. Accordingly, the Board finds that Barbara Spradlin violated Sections 21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) of the Act.

The civil penalty for violating any provision of Section 21(p) and 55(k) 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) (2010); 35 Ill. Adm. Code 108.500(a). Because there are five violations and no indication in the record that any of these is a second or subsequent adjudicated violation, the total civil penalty is \$7,500. 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 Barbara Spradlin violated Sections 21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) (2010)).
2. Barbara Spradlin must pay a civil penalty of \$7,500 no later than April 16, 2012, which is the first business day following the 30th day after the date of this order. Respondent 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 respondent’s social security number must be included on the certified check or money order.
3. Barbara Spradlin must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency
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) (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 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) (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 March 15, 2012, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 12-20-11, Illinois EPA sent this Administrative Citation via Certified Mail No. 7009 2820 0001 7496 0032.

VIOLATIONS

Based upon direct observations made by Charlie King during the course of his November 3, 2011 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent's have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent's caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).
- (2) That Respondent's caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2010).
- (3) That Respondent's caused or allowed the open dumping of waste in a manner resulting in deposition of waste in standing or flowing waters, a violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2010).
- (4) That Respondent's caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

- (5) That Respondent's caused or allowed the open dumping of waste in a manner resulting in used tires, at this site, not altered, covered or otherwise prevented from accumulating water, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), Respondent's are 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 Seven Thousand Five Hundred Dollars (\$7,500.00). If Respondent's elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than January 15, 2012, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent's elect 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 (2010), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent's 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 One Thousand Five Hundred Dollar (\$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) (2010), if Respondent's fail 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 findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois

Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent's shall complete and return the enclosed Remittance Form 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's from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent's in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent's have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2010). If Respondent's elect to contest this Administrative Citation, then Respondent's shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent's.



John J. Kira, Interim Director
Illinois Environmental Protection Agency

Date: 12/20/2011

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
v.)
DALE GORDON SPRADLIN AND)
BARBARA J. SPRADLIN,)
Respondent's.)

AC 12-23
(IEPA No. 405-11-AC)

ORIGINAL

FACILITY: Martinsburg Township/Spradlin
SITE CODE NO.: 1498130002
COUNTY: Pike
CIVIL PENALTY: \$7,500.00
DATE OF INSPECTION: November 3, 2011

DATE REMITTED:
SS/FEIN NUMBER:
SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.