

ILLINOIS POLLUTION CONTROL BOARD
July 12, 2012

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 12-55
) (Administrative Citation)
S.I. WASTE SYSTEMS, LLC, d/b/a)
MIDWEST WASTE,)
)
Respondent.)

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

On May 18, 2012, the County of Jackson (Jackson) timely filed an administrative citation against S.I. Waste Systems, LLC, doing business as Midwest Waste (Midwest). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Midwest's tractor-trailer truck, which was allegedly seen being driven from the Southern Illinois Regional Landfill, near DeSoto in Jackson County, onto Landfill Road and then turning South onto U.S. Route 51 near the Village of DeSoto. The vehicle has the Illinois licence number 326 523s/t. For the reasons below, the Board finds that Midwest violated the Environmental Protection Act (Act) (415 ILCS 5 (2010)) and orders Midwest 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 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. *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, Jackson alleges that on April 10, 2012, Midwest violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter. According to the citation, litter was being blown out of the vehicle at or around a point North of Dumaroc Road on U.S. Route 51. Jackson asks the Board to impose the statutory \$1,500 civil penalty per violation on Midwest, for a total civil penalty of \$1,500. As required, Jackson served the administrative citation on Midwest 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 June 25, 2012. Midwest failed to timely file a petition. Accordingly, the Board finds that Midwest 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)(4-5) (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 findings of fact and conclusions of law.

ORDER

1. The Board finds that Midwest violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2010)).
2. Midwest must pay a civil penalty of \$1,500 no later August 13, 2012, which is the first business day following the 30th day after the date of this order. Midwest must pay the civil penalty by certified checks or money orders, made payable in equal amounts (\$750 to each) to the County of Jackson and the Illinois Environmental Protection Trust Fund. The case number, case name, and Midwest's federal employer identification number must be included on each certified check or money order.
3. Midwest must send the respective certified checks or money orders and remittance forms to:

County of Jackson
 c/o Jackson County Treasurer
 Jackson County Courthouse
 Murphysboro, Illinois 62966

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 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 July 12, 2012, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION**

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.)
)
 S.I. WASTE SYSTEMS, LLC,)
 d/b/a Midwest Waste,)
)
 Respondent.)

AC 12 - *SS*
Site Code: 199 055 0006

RECEIVED
CLERK'S OFFICE

MAY 1 & 2012

STATE OF ILLINOIS
Pollution Control Board

JURISDICTION

This Administrative Citation is issued pursuant to 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, S.I. Waste Systems, LLC, d/b/a Midwest Waste, is the present owner and operator of a waste hauling/trucking company located at 716 Skyline Drive, Marion, Williamson County, Illinois 62959.

2. The Respondent was in responsible charge of a tractor-trailer truck with Illinois license number 326 523s/t being driven from the Southern Illinois Regional Landfill near DeSoto, Jackson County, Illinois then onto Landfill Road and then turn South onto U.S. Route 51 near the Village of DeSoto, Illinois, on April 10, 2012.

3. The Respondent has owned said vehicle for all material times hereto.

4. On April 10, 2012, Don Terry, Environmental Compliance Inspector, and Kerri Gale, both employed by the Jackson County Health Department witnessed litter being blown out of the vehicle at or around a point North of Dumaroc Road on U.S. Route 51. A copy of Mr. Terry's report and his affidavit is attached hereto and made a part hereto.

VIOLATIONS

On the basis of his direct observations on April 10, 2012, he determined that the Respondent has caused or allowed open dumping; and resulted in the following violation:

1. The Respondent has caused or allowed litter 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 July 15, 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, and if the Illinois Pollution Control Board issues a finding of violation 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 elect 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, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and
- (2) 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.

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 either 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 ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must 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

Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor, Murphysboro, Il 62966. **YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. 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 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, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney
Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, 3rd Floor
Murphysboro, Il 62966

DATED: May 16, 2012

A handwritten signature in blue ink, appearing to read 'Daniel Brenner', written over a horizontal line.

Daniel Brenner
Assistant State's Attorney

RECEIVED
CLERK'S OFFICE

REMITTANCE FORM TO COUNTY OF JACKSON

MAY 18 2012

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.)
)
 S.I. WASTE SYSTEMS, LLC,)
 d/b/a Midwest Waste,)
)
 Respondent.)

AC 12 - *SS*
Site Code: 199 055 0006

FACILITY: Jackson Co./Midwest Waste

COUNTY: JACKSON

DATE OF INSPECTION: April 10, 2012

SITE CODE: 199 055 0006

Date Remitted: _____, 2012

SS/FEIN # _____

Signature _____

NOTE

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

Shirley Dillinger Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois, 62966

RECEIVED
CLERK'S OFFICE
MAY 18 2012
STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM TO ILLINOIS EPA

COUNTY OF JACKSON,)
)
Complainant,)
)
v.)
)
S.I. Waste Systems, LLC,)
d/b/a Midwest Waste,)
)
Respondent.)

AC 12 - 55
Site Code: 199 055 0006

FACILITY: Jackson Co./KRD Trucking
COUNTY: JACKSON
DATE OF INSPECTION: April 10, 2012
SITE CODE: 199 055 0006

Date Remitted: _____, 2012

SS/FEIN # _____

Signature _____

NOTE

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