

ILLINOIS POLLUTION CONTROL BOARD
March 7, 2013

COUNTY OF VERMILION)
)
 Complainant,)
)
 v.) AC 13-37
) (County No.13-01)
 CHARLES LONG,) (Administrative Citation)
)
 Respondent.)

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

On January 30, 2013, the County of Vermilion (County) filed an administrative citation against Charles Long (respondent). *See* 415 ILCS 5/31.1 (2010); 35 Ill. Adm. Code 108. In today's order, the Board dismisses this case because the County has failed to timely serve the administrative citation on respondent.

The administrative citation concerns a residential property owned by respondent and located at 1330 West Williams Street, Danville. The County alleged that, on November 20, 2012, respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7)) (2010)) by allowing the open dumping of waste in a manner resulting in litter and in deposition of general construction or demolition debris or clean construction and demolition debris. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on respondent, for a total civil penalty of \$3,000. *See* 415 ILCS 5/42(b)(4) (2010). The Board received no petition from respondent contesting the administrative citation.

Section 31.1(b) of the Act requires the County to serve an administrative citation on a respondent "within not more than 60 days after the observed violation." 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 108.202(b). Failure to timely serve the citation deprives the board of jurisdiction. *See, e.g., County of LaSalle v. Harriet and John Baugher*, AC 05-73, slip op. at 1 (June 16, 2005) (dismissal for lack of jurisdiction after citation served on 64th day after site inspection).

Here, the administrative citation filed by the County on January 30, 2013, did not include the requisite proof of service, but indicated in the cover letter that the administrative citation was served on January 24, 2013. Based on the County's inspection of respondent's property and observation of alleged violations on November 20, 2012, and on the County's indication of service on January 24, 2013, the Board cannot conclude that the County served its citation on the respondent "within not more than 60 days after the observed violation." 415 ILCS 5/31.1(b)(2010); *see also* 35 Ill. Adm. Code 108.202(b)(c). Due to the County's failure to timely serve the administrative citation, the Board lacks jurisdiction over this case. *See* 415 ILCS 5/31.1(b) (2010). Under these circumstances, the Board on its own motion dismisses the administrative citation and closes the docket. *See* 35 Ill. Adm. Code 108.402.

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 to 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 order on March 7, 2013 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 extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board