

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2013

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|--------------------------------|---|---------------------------|
| COUNTY OF VERMILION, ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 13-52 |
| |) | (Administrative Citation) |
| CHARLES LONG, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by C.K. Zalewski):

On June 12, 2013, the County of Vermillion (County) filed an administrative citation against Charles Long.¹ *See* 415 ILCS 5/31.1 (2010); 35 Ill. Adm. Code 108. Today's order dismisses this case because the County has failed to timely serve the administrative citation on Mr. Long.

The administrative citation concerns vacant land located at the area of 14503 Hungry Hollow Road in Danville, Vermillion County. The property is commonly known to the County as the "Danville/Long - Hungry Hollow Road" site and is designated with Site Code No. 1838045058. The County alleged that on April 2, 2013, Mr. Long violated Sections 21(p) (1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), 21(p)(7) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on Mr. Long, for a total civil penalty of \$3,000. *See* 415 ILCS 5/42(b)(4-5) (2010). The Board has received no petition from Mr. Long contesting the administrative citation.

Section 31.1(b) of the Act requires the complainant to serve the administrative 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). 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 because citation served on 64th day after site inspection).

Here, the site inspection took place on April 2, 2013. The 60th day after April 2, 2013, was June 1, 2013. However, because June 1, 2013, was a Saturday, the 60-day deadline for service of the administrative citation on Mr. Long was Monday, June 3, 2013, the next business day. *See* 35 Ill. Adm. Code 101.300(a). On June 27, 2013, the County filed a certified mail return receipt, documenting that service took place on June 6, 2013, the 65th day after the site inspection. Because service was not timely under the Act, the Board does not have jurisdiction

¹ An unsigned partial version of the administrative citation was filed on May 31, 2013.

over this case. Accordingly, 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 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 11, 2013, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board