

ILLINOIS POLLUTION CONTROL BOARD
October 3, 2013

COUNTY OF MONTGOMERY)
)
Complainant,)
)
v.) AC 14-8
) (Montgomery County No. 2013-01-AC)
Vernon Weber,) (Administrative Citation)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On July 31, 2013, the County of Montgomery, (complainant) timely filed an administrative citation against Vernon Weber (respondent). The administrative citation concerns respondent's residential property located at 513 First Street in Ohlman, Montgomery County. The property is commonly known to Montgomery County as the Ohlmen/Weber, Vernon site and is designated with Site Code No.1350505008. For the reasons below, the Board finds that respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2012)) and orders Vernon Weber to pay \$3000 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 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) (2012); 35 Ill. Adm. Code 108.

In this case, the complainant alleges that on June 28, 2013, respondent violated Sections 21(p)(1) and section 55(k)(1) of the Act (415 ILCS 5/21(p)(1) and 55(k)(1) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter and by causing or allowing water to accumulate in used or waste tires. Complainant asks the Board to impose the statutory \$1,500 civil penalty per violation on respondent, for a total civil penalty of \$3000. As required, complainant served respondent with the administrative citation on August 22, 2013, which is within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *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 violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by September 26, 2013. Respondent failed to timely file a petition. Accordingly, the Board finds that respondent violated section 21(p) and section 55(k) of the Act.

The civil penalty for violating any provision of section 21(p) or 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) (2012); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Sections 21(p) and 55(k), and there is no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$3000. 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 Vernon Weber violated Sections 21(p)(1) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and 55(k)(1) (2012)).
2. Vernon Weber must pay a civil penalty of \$3000 no later than November 4, 2013, which is the first business day following the 30th day after the date of this order. Vernon Weber must pay the civil penalty by certified check or money order, made payable to the Montgomery County EPD C/O County Treasurer, attn. Ron Jenkins, 1 Courthouse square, Room 101, Hillsboro, Illinois 62049. The case number, case name, and Vernon Weber's social security number must be included on the certified check or money order.
3. Vernon Weber must send the certified check or money order and the remittance form to:

Montgomery County EPD
C/O County Treasurer
Attn. Ron Jenkins
1 Courthouse square, Room 101
Hillsboro, Illinois 62049
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
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) (2012); *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 opinion and order on October 3, 2013, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board