

ILLINOIS POLLUTION CONTROL BOARD  
December 6, 2018

MACON COUNTY ENVIRONMENTAL )  
MANAGEMENT DEPARTMENT, )  
 )  
Complainant, )  
 )  
v. ) AC 19-6  
 ) (MCEMD No. 2018-006)  
KORI RICE, ) (Administrative Citation)  
 )  
Respondent. )

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On October 5, 2018, the Macon County Environmental Management Department (Macon County) timely filed an administrative citation against Kori Rice. *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the Sheets Road right-of-way located in Oakley Township, Macon County. The property is commonly known to the Illinois Environmental Protection Agency (IEPA) as the “Oakley Twp./Sheets Road ROW” site and is designated with Site Code No. 1158125046. For the reasons below, the Board finds that Kori Rice violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders her 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 IEPA or, if IEPA 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) (2016); 35 Ill. Adm. Code 108.

In this case, Macon County alleges that on August 27, 2018, Kori Rice violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2016)) by causing or allowing the open dumping of waste resulting in litter. Macon County asks the Board to impose the statutory \$1,500 civil penalty per violation on Kori Rice, for a total civil penalty of \$1,500. As required, Macon County served Kori Rice with the administrative citation on October 10, 2018, which is 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 violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by November 14, 2018. Kori Rice failed to timely file a petition. Accordingly, the Board finds that Kori Rice 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) (2016); 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 finding of fact and conclusions of law.

### **ORDER**

1. The Board finds that Kori Rice violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2016)).
2. Kori Rice must pay a civil penalty of \$1,500 no later than Monday, January 7, 2019, which is the first business day following the 30th day after the date of this order. Kori Rice must pay the civil penalty by certified check or money order in two equal payments of one half of the total penalty, made payable to the Illinois Environmental Protection Trust Fund and the Macon County Environmental Management Department. The case number, case name, and Kori Rice's social security number or federal employer identification number must be included on the certified check or money order.
3. Kori Rice must send the certified checks or money orders and the remittance forms to:

Macon County Environmental Management Department  
141 South Main Street  
Room 408  
Decatur, Illinois 62523

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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
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) (2016); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Macon County Department of Environmental Management Attn: Michael Baggett, Assistant State's Attorney Macon County Courthouse 253 East Wood Street Decatur, Illinois 62523-1400	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Kori Rice 1896 Piatt Road Monticello, Illinois 61856	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 6, 2018, by a vote of 5-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board