

ILLINOIS POLLUTION CONTROL BOARD
July 12, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-60
)	(IEPA No. 128-07-AC)
JOSEPH COMBS,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On May 22, 2007, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Joseph Combs (Combs). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on April 12, 2007, Combs violated Sections 21(p)(1), (3) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2006)) (Act).

The administrative citation concerns a site commonly known as White Hall/Combs designated with Site Code No. 0610405013, and located at 260 Isreal Street in White Hall, Greene County. For the reasons below, the Board finds that Combs violated the Act (415 ILCS 5 (2006)) and orders respondent to pay \$4,500 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 Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that Combs violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter, (2) open burning, and (7) deposition of general construction or demolition debris or clean construction or demolition debris. The Agency asks the Board to impose a \$4,500 civil penalty on Combs. As required, the Agency served the administrative citation on Combs within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 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. 415 ILCS 5/31.1(d)(1) (2006); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on June 27, 2007. Combs failed to timely file a

petition. Accordingly, the Board finds that Combs violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3), and (7) (2006)).

The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$4,500. 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 Joseph Combs violated Sections 21(p)(1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3), and (7) (2006)) as alleged. Joseph Combs must pay a civil penalty of \$4,500 no later than August 13, 2007, which is the first business day after the 30th day after the date of this order.
2. Joseph Combs must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Joseph Combs' social security number or federal employer identification number must be included on the certified check or money order.
3. Joseph Combs must send the certified check or money order and the remittance form to:

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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
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) (2006); *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, 2007, 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, Assistant Clerk
Illinois Pollution Control Board