

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2009

COUNTY OF VERMILLION, ILLINOIS)	
)	
Complainant,)	
)	
v.)	AC No. 09-26
)	County No. 08-04
BILL RICHARDSON,)	
)	
Respondent.)	
)	
)	
)	

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

On December 4, 2008, the County of Vermilion, Illinois timely filed an administrative citation against Bill Richardson. *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns an unlicensed open dump on residential property located at 647 E. 13th Street, Danville, County of Vermilion. For the reasons below, the Board finds that Richardson violated the Environmental Protection Act (“Act”), 415 ILCS 5/21(p)(1) and (p)(3) (2006), and orders Richardson to pay \$3,000 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, 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 County of Vermilion alleges that Richardson violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1) and (3) (2006)) by causing or allowing the dumping of open waste in a manner resulting in: (1) litter and (2) open burning. The County of Vermilion asks the Board to impose a \$3,000 civil penalty on Richardson. As required, the County of Vermilion served the administrative citation on Richardson within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *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) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due on December 30, 2008. Richardson failed to timely file a petition. Accordingly, the Board finds that Richardson violated Sections 21(p)(1) and 21(p)(3) of the Act.

The civil penalty for violating any provision of subsection (p) of Section 21 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) (2006); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p), the total civil penalty is \$3,000. 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 Bill Richardson (Richardson) violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1) and (3) (2006)).
2. Richardson must pay a civil penalty of \$3,000 no later than February 23, 2009, which is which is the first business day after the 30 day from the date of this order. Richardson must pay the civil penalty by certified check or money order, made payable to the County of Vermilion. The case number, case name, and Richardson's social security number or federal employer identification number must be included on the certified check or money order.
3. Richardson must send the certified check or money order and the remittance form to:

Vermilion County Health Department
200 S. College Street
Danville, Illinois 61832
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 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) (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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 22, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk

Illinois Pollution Control Board

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DEC 04 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF VERMILION, ILLINOIS,)
)
Complainant,)
)
v.)
)
BILL RICHARDSON,)
)
Respondent.)

AC No. 09-26
County File No. 08-04

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 4(e) and 31.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

FACTS

1. Respondent's mother, Zora Davis, is, and was at all times relevant to this Administrative Citation, the owner of property located at 647 E. 13th Street, Danville, County of Vermilion, State of Illinois.
2. Said property was operated as an unlicensed open dump, and designated with Illinois Environmental Protection Agency Site Code No.1838040025.
3. On October 3, 2008, Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of their inspection report are attached hereto and made a part hereof by reference.

VIOLATIONS

On the basis of the direct observation of Douglas Toole, the County of Vermilion has determined that on October 3, 2008, Respondent was conducting an unlicensed open dump at the above-described address, which is required to have a permit pursuant to 415 ILCS 5/21(a) of the Act, in a manner which resulted in the following conditions:

- A. Open dumping resulting in litter was observed at the site, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...litter; and

- B. Open dumping resulting in open burning was observed at the site, in violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...open burning.

CIVIL PENALTY

Pursuant to section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent herein is subject to a civil penalty of Fifteen Hundred Dollars (\$1500.00) for each of the above-mentioned violations. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein, and if there is a finding of the violation alleged herein after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Pollution Control Board, in addition to the Fifteen Hundred Dollar (\$1500.00) statutory penalty for each violation.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation under section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment will be issued by the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Vermilion County State's Attorney's Office, 7 North Vermilion Street, Danville, Illinois 61832.

If you acknowledge the violation cited herein, the civil penalty specified above shall be due and payable no later than December 26, 2008. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof and have not paid the civil penalty by the due date stated above, or if you elect to contest this Administrative Citation, any judgment rendered shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, checks shall be made payable in equal amounts (50% of the total penalty each) to:

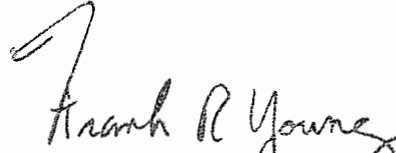
(1) the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276; and

(2) the County of Vermilion, Illinois, and mailed to the attention of Vermilion County Health Department, 200 South College Street, Danville, Illinois 61832.

Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Vermilion County State's Attorney may initiate proceedings in the Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty and any hearing costs of the Illinois Pollution Control Board, the State's Attorney's Office will seek to recover its costs of litigation.

Dated: 11/24/03



Frank R. Young
State's Attorney for Vermilion County

By: Charles D. Mockbee IV

Charles D. Mockbee IV
Assistant State's Attorney

Prepared by:
Charles D. Mockbee IV
Office of the State's Attorney
7 N. Vermilion St.
Danville, IL 61832
217-554-7750

COPY

REMITTANCE FORM TO ILLINOIS EPA

IN THE MATTER OF
BILL RICHARDSON,

)
)
)
)
)

AC No. 09-26
County File No. 08-04

Respondent)

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DEC 04 2008

STATE OF ILLINOIS
Pollution Control Board

Facility/Property: Bill Richardson

County: Vermilion

Date of Inspection: October 3, 2008

Site Code No.: 1838040025

Civil Penalty to Illinois EPA: \$750.00 for each violation = \$1500.00

Date Remitted: _____

SSN/FEIN No.: _____

Signature: _____

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the the Illinois Environmental Protection Trust Fund. Be sure your check is enclosed with this Remittance Form and mail to: Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

09-26

REMITTANCE FORM TO VERMILION COUNTY HEALTH DEPARTMENT

IN THE MATTER OF)
BILL RICHARDSON,)
)
)
)
Respondent)

AC No. 09-26
County File No. 08-04

Facility/Property: Bill Richardson
County: Vermilion
Date of Inspection: October 3, 2008
Site Code No.: 1838040025
Civil Penalty to County: \$750.00 for each violation = \$1500.00
Date Remitted: _____
SSN/FEIN No.: _____
Signature: _____

RECEIVED
CLERK'S OFFICE
DEC 04 2008
STATE OF ILLINOIS
Pollution Control Board

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the County of Vermilion, Illinois. Be sure your check is enclosed with this Remittance Form and mail to: Vermilion County Health Department, 200 S. College Street, Danville, Illinois 61832.