

ILLINOIS POLLUTION CONTROL BOARD
May 7, 2009

COUNTY OF SANGAMON,)
)
Complainant,)
)
v.) AC 09-36
) (Administrative Citation)
LANDERS' CHILDREN FAMILY, LLC,)
)
Respondent.)
)

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

On February 25, 2009, the County of Sangamon timely filed an administrative citation (AC) against the Landers' Children Family, LLC (Landers). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The AC concerns respondent's parcel of land located at 13487 Bab Road, Auburn, Sangamon County. The site is known to the Illinois Environmental Protection Agency(Agency) and Sangamon County as Auburn/Landers's Children Family, LLC. For the reasons below, the Board finds that Landers violated the Illinois Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders them to pay \$4,500.00in civil penalties.

Under the Act (415 ILCS 5 (2006)), 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 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, Sangamon County alleges that Landers violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction and demolition debris. Sangamon County asks the Board to impose a \$4,500.00 civil penalty on respondents. As required, Sangamon County served the AC on respondents 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 AC, a respondent must file a petition with the Board no later than 35 days after being served with the AC. 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 April 10, 2009. Respondent failed to timely file a petition. Accordingly, the Board finds that Landers' Children Family, LLC violated Sections 21(p)(1), (3), and (7) 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 3 violations of Section 21(p) and these are the respondent's first adjudicated violations, the total civil penalty is \$4,500.00. 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. Landers' Children Family, LLC must pay a civil penalty of \$4,500.00 no later than June 8, which is the first business day after the 30th day after the date of this order.
2. Landers' Children Family, LLC must pay the civil penalty by certified check or money order, made payable to the Sangamon County Department of Public Health. The case number, case name, and Landers Children's Family, LLC social security number or federal employer identification number must be included on the certified check or money order.
3. Landers' Children Family, LLC must send the certified check or money order and the remittance form to:

Sangamon County Department of Public Health
Attn: James D. Stone
Director
2501 N. Dirksen Parkway
Springfield, Illinois 62702
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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 7, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board