

ILLINOIS POLLUTION CONTROL BOARD  
September 8, 2011

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 11-31
	)	(IEPA No. 128-11-AC)
PATRICK and MONIQUE D. PATTERSON,	)	(Administrative Citation)
	)	
Respondent.	)	
	)	

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

On June 7, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Patrick and Monique Patterson (Pattersons). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the Pattersons' Springfield/Patterson open dump located 6009 Old Salem Lane, Springfield, Sangamon County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as the "Springfield/Patterson" site and is designated with Site Code No. 1671209263. For the reasons below, the Board finds that the Pattersons violated the Environmental Protection Act (Act) (415 ILCS 5 (2010)) and orders the Pattersons 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 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) (2010); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on April 6, 2011, the Pattersons violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2010)), by causing or allowing the open dumping of waste in a manner resulting in litter; Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2010)), by causing or allowing the open dumping of waste in a manner resulting in open burning; and Section 21 (p)(7) of the Act (415 ILCS 5/21(p)7) (2010)) by causing or allowing the open dumping of waste in a manner resulting in Deposition of General Construction or Demolition Debris: or Clean Construction or Demolition Debris. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on the Pattersons, for a total civil penalty of \$4,500. As required, the Agency served the administrative citation on the Pattersons 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) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by July 7, 2011.

On July 6, 2011, the Pattersons timely filed a petition (Pet.). *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). The petition protests two of the Agency's three alleged violations, including the dumping of waste resulting in litter and the deposition of construction or demolition debris. Pet. at 1. With regard to the alleged litter violation, the Pattersons claim that most of the small items in the yard "are used by a 6 year old in his play time." *Id.* The petition also alleges that the horse matting is "very difficult" to stack "in an orderly fashion" and the petition offers explanations for the use of other items found in the yard, presumably alleging that they do not constitute litter. *Id.* With regard to the alleged construction debris, the Pattersons again explain their planned uses for the alleged debris. *Id.* at 1-2. Finally, the Pattersons claim that they have pictures of a dumpster they used to clean up "stained soil and other fragments." *Id.* at 2. On July 21, 2011, the Board accepted the petition as timely but found that the petition contained deficiencies that must be remedied before the case can be accepted for hearing. The Board directed the Pattersons to file an amended by August 22, 2011. The Pattersons failed to timely file an amended petition. Accordingly, the Board finds that the Pattersons violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act.

The civil penalty for violating any provision of Section 21(p), 22.51, 22.51a, 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)(4-5) (2010); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and no indication in the record that this is/any of these is a second or subsequent adjudicated violation, 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 the Patrick and Monique Patterson (Pattersons) violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (3), and (7) (2010)).
2. The Pattersons must pay a civil penalty of \$4,500 no later than October 11, 2011, which is the first business day following the 30th day after the date of this order. The Pattersons 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 the Pattersons' social security number or federal employer identification number must be included on the certified check or money order.

3. The Pattersons 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Payment of this penalty does not prevent future prosecution if the violation 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) (2010); *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 September 8, 2011, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board



5. That on 6-2-11, Illinois EPA sent this Administrative Citation via Certified Mail No. 7004 2510 0001 8619 1609.

#### VIOLATIONS

Based upon direct observations made by Paul Eisenbrandt during the course of his April 6, 2011 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2008).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2008).
- (3) That Respondents caused or allowed the open dumping of waste in a manner resulting in Deposition of General Construction or Demolition Debris: or Clean Construction or Demolition Debris a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2008).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Four Thousand Five Hundred Dollars (\$4,500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty

specified above shall be due and payable no later than June 30, 2011, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2008), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2008), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to 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. Along with payment, Respondents shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2008). If Respondents elect to contest this Administrative Citation, then Respondents shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondents.

 Lisa Bonnett *by SOP*

Lisa Bonnett, Interim Director  
Illinois Environmental Protection Agency

Date: 5/31/11

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544