

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2003

COUNTY OF MONTGOMERY,)
)
 Complainant,)
)
 v.) AC 03-23
) (County No. 2003-01-AC)
 ROBERT SCOTT,) (Administrative Citation)
)
 Respondent.)
)

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On March 12, 2003, County of Montgomery (Montgomery County) timely filed an administrative citation against Robert Scott. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is Montgomery County's allegation that Robert Scott violated Section 21(p)(1), (p)(2), and (p)(7) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1), (p)(2), and (p)(7) (2002). Montgomery County further alleges that Robert Scott violated these provisions by causing or allowing the open dumping of waste resulting in litter, open burning, and the deposition of general construction or demolition debris or clean construction or demolition debris at the South Half (S 1/2 of the Southeast Quarter (SE 1/4) of Section 36, Township 10 North, Range 3 West, of the Third Principal Meridian, in Montgomery County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, Montgomery County served the administrative citation on Robert Scott within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *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 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Robert Scott failed to timely file a petition. Accordingly, the Board finds that Robert Scott violated Section 21(p)(1), (p)(3), and (p)(7) of the Act.

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) (2002); 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. Robert Scott must pay a civil penalty of \$4,500 no later than June 14, 2003, which is the 30th day after the date of this order.
2. Robert Scott 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 Robert Scott's social security number or federal employer identification number must be included on the certified check or money order.
3. Robert Scott must send the certified check or money order and the remittance form to:

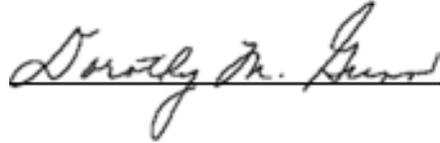
County Coordinator
Montgomery County Coordinated Services
P.O. Box 122
Hillsboro, Illinois 62049
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Board Member G.T. Girard dissented.

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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 15, 2003, by a vote of 6-1.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board