

ILLINOIS POLLUTION CONTROL BOARD  
November 16, 2017

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 18-2
	)	(IEPA No. 163-17-AC)
DRAGON DUMPS, VICE INVESTMENTS,	)	(Administrative Citation)
LLC and ANDREW B. VICE,	)	
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by K. Papadimitriou):

On October 4, 2017, Illinois Environmental Protection (Agency) timely filed an administrative citation against Dragon Dumps, Vice Investments, LLC (Dragon) and Andrew B. Vice.<sup>1</sup> *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 912 North 12th<sup>h</sup> Street in Pekin, Tazewell County, owned by Charles E. Tarpley, Jr. (Tarpley Facility). The Tarpley Facility is an open dump operating without the Agency’s permit and is designated with Site Code No. 1794735187. For the reasons below, the Board finds that Dragon and Mr. Vice violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders Dragon and Mr. Vice 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 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) (2016); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on or before September 13, 2017, Dragon and Mr. Vice violated Sections 21(p)(1) and (7) of the Act (415 ILCS 5/21(p)(1), (7) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter and deposition of general or clean construction or demolition debris. AC at 1. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on Dragon and Mr. Vice, for a total civil penalty of \$3,000. *Id.* at 2. As required, the Agency served Dragon and Mr. Vice with the administrative citation on September 30, 2017, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2016); *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

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<sup>1</sup> The administrative citation is cited as “AC at \_.”

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) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by November 6, 2017. Dragon and Mr. Vice failed to timely file a petition. Accordingly, the Board finds that Dragon and Mr. Vice violated Sections 21(p)(1) and (7) of the Act.

The civil penalty for violating any provision of Section 21(p) 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) (2016); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(p) and no indication in the record that any of these is a second or subsequent adjudicated violation, 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 Dragon and Andrew B. Vice violated Sections 21(p)(1) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (7) (2016)).
2. Dragon and Mr. Vice must jointly and severally pay a civil penalty of \$3,000 no later than December 18, 2017, which is the first business day following the 30th day after the date of this order. Dragon and Mr. Vice 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 Dragon and Mr. Vice's social security number or federal employer identification number must be included on the certified check or money order.
3. Dragon and Mr. Vice 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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the 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) (2016); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Dragon Dumps, Vice Investments, LLC Attn: Andrew B. Vice, Registered Agent 3810 Cole Hollow Road Pekin, IL 61554	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Andrew B. Vice 3810 Cole Hollow Road Pekin, IL 61554	
Illinois Environmental Protection Agency Attn: Michelle M. Ryan 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794 michelle.ryan@illinois.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 16, 2017, by a vote of 5-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board