

ILLINOIS POLLUTION CONTROL BOARD
December 21, 2017

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY)	
,)	
)	
Complainant,)	
)	
v.)	AC 18-5
)	(IEPA No. 189-17-AC)
FLOYD & VICKIE WILSON, TANNER)	(Administrative Citation)
TOWING COMPANY, INC., and)	
PARKLAND ENVIRONMENTAL GROUP,)	
INC.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On October 25, 2017, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against Floyd & Vickie Wilson, Tanner Towing Company, Inc. (Tanner Towing), and Parkland Environmental Group, Inc. (Parkland) (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.200. The administrative citation concerns a facility owned by Floyd & Vickie Wilson located at 14492 East Back Road, Lewistown, Fulton County. The citation alleges that Tanner Towing hired Parkland to demolish a building and that Parkland dumped demolition waste at property owned by Floyd & Vickie Wilson. The property is commonly known to IEPA as the “Wilson, Floyd & Vickie” site and is designated with Site Code No. 0578125003. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2010)) and orders respondents to pay \$3,000 in civil penalties.

Under the Environmental Protection 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 IEPA or, if IEPA 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, IEPA alleges that on September 13, 2017, respondents violated Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(7) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter and in deposition of general construction or demolition debris or clean construction or demolition debris. IEPA asks the Board to impose the statutory \$1,500 civil penalty per violation on respondents, for a total civil penalty of \$3,000. As required, IEPA served the administrative citation on Tanner Towing on October 26, 2017; Floyd & Vickie Wilson on October 27, 2017; and Parkland on October 31,

2017. IEPA served each of the respondent 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 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 from Tanner Towing by November 30, 2017; from Floyd & Vickie Wilson by December 1, 2017; and from Parkland by December 5, 2017. Each of the respondents failed to timely file a petition. Accordingly, the Board finds that respondents violated Sections 21(p)(1) and 21 (p)(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 three violations of Section 21(p) and there is 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 Floyd & Vickie Wilson; Tanner Towing Company, Inc.; and Parkland Environmental Group, Inc. violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(7) (2016)).
2. Floyd & Vickie Wilson; Tanner Towing Company, Inc.; and Parkland Environmental Group, Inc. must pay a civil penalty of \$3,000 no later than Monday, January 22, 2018, which is the first business day following the 30th day after the date of this order. Floyd & Vickie Wilson; Tanner Towing Company, Inc.; and Parkland Environmental Group, Inc. 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 respondents’ names and social security number or federal employer identification number must be included on the certified check or money order.
3. Floyd & Vickie Wilson; Tanner Towing Company, Inc.; and Parkland Environmental Group, Inc. 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

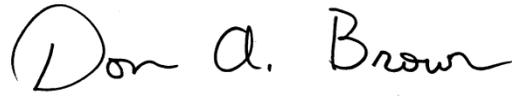
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the 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) (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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Environmental Protection Agency Attn: Michelle M. Ryan 1021 North Grand Avenue East Springfield, Illinois 62794-9276	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Floyd & Vickie Wilson 613 Carola Street Creve Coeur, Illinois 61611	
Parkland Environmental Group, Inc. Attn.: Glenda M. Stowers 1285 Maurice Werner Dr. Springfield, IL 62707	
Jack Tanner Towing Company, Inc. Attn: Daniel E. Houghton 801 South 11th Street Havana, Illinois 62644	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 21, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board