

ILLINOIS POLLUTION CONTROL BOARD
April 12, 2018

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) AC 18-8
) (Site Code No. 077 035 5004)
 WILLIAM MARTIN, JR.,) (Administrative Citation)
)
 Respondent.)

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

On March 1, 2018, the County of Jackson (County) timely filed an administrative citation against William Martin, Jr. *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Martin’s residential property located at 207 Park Street in Gorham, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency as the “Gorham/William Martin, Jr.” site and is designated with Site Code No. 077 035 5004. For the reasons below, the Board finds that Mr. Martin violated the Environmental Protection Act (415 ILCS 5 (2016)) and orders him to pay \$3,000 in civil penalties.

Under the Environmental Protection Act (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 County alleges that, on January 25, 2018, Mr. Martin 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 resulting in litter and deposition of general or clean construction or demolition debris. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on Mr. Martin, for a total civil penalty of \$3,000. As required, the County served him with the administrative citation on February 27, 2018, 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 so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 5/31.1(d)(1) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by Tuesday, April 3, 2018. Mr.

Martin failed to timely file a petition. Accordingly, the Board finds that he 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 two violation(s) of Section 21(p) and there is no indication in the record that either 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 William Martin, Jr. 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. Mr. Martin must pay a civil penalty of \$3,000 no later than Monday, May 14, 2018, which is the first business day following the 30th day after the date of this order. Mr. Martin must pay the civil penalty by certified check or money order, made payable in equal amounts of one half of the total penalty to the County of Jackson and the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Martin's social security number number must be included on each certified check or money order.
3. Mr. Martin must send one certified check or money order for one-half of the total penalty and the remittance form to:

Sharon Harris Johnson, Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois 62966

Mr. Martin must send one certified check or money order for one-half of the total penalty 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
Jackson County Attn: Daniel Brenner, Asst. State's Attorney Jackson County Courthouse, 3rd Floor Murphysboro, Illinois 62966	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
William Martin, Jr. 207 Park Street Gorham, Illinois 62940	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 12, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board