

ILLINOIS POLLUTION CONTROL BOARD

March 20, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-7
)	(IEPA No. 156-13-AC)
JOHN K. CROSLow D/B/A CROSLow'S)	(Administrative Citation)
AUTO REPAIR,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on July 16, 2013 against John K. Croslow d/b/a Croslow's Auto Repair (respondent). The Agency alleged that on May 30, 2013, respondent violated Sections 55(k)(2) and 55(k)(3) of the Environmental Protection Act (Act) (415 ILCS 5/55(k)(2), 55(k)(3) (2012)) by managing used tires in a manner that resulted in the failure to collect a fee required by Section 55.8 of the Act and failure to file a return under Section 55.10 of the Act (415 ILCS 5/55.8, 55.10 (2012)). The violation allegedly took place at respondent's facility located at 1421 Lexington Avenue in Lawrenceville, Lawrence County. The property is commonly known to the Agency as the "Croslow's Auto Repair (f/k/a Croslow's Shell Station)" site and is designated with Site Code No. 1010155024.

Respondent timely filed a petition to contest the administrative citation, which the Board accepted on July 24, 2013. On March 17, 2014, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, respondent admits that he violated Section 55(k)(2)¹ of the Act (415 ILCS 5/55(k)(2) (2012)) by failing to collect a fee required under Section 55.8 of the Act, and agrees to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at ¶ 4. Respondent also agrees to the dismissal of his petition contesting the administrative citation. *Id.* The stipulation further states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

¹ The Board notes that the citation in the stipulation is to Section 21(k)(2) of the Act; however there is not Section 21(k)(2) and the alleged violation is actually to Section 55(k)(2). The administrative citation also alleges a violation of Section 55(k)(2). Therefore, the Board cites to Section 55(k)(2) of the Act (415 ILCS 5/55(k)(2)).

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2012)), the Board therefore finds that respondent violated Section 55(k)(2) of the Act (415 ILCS 5/55(k)(2) (2012)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2012)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To implement the parties' intent that respondent pay a total civil penalty of \$1,500, the Board dismisses the alleged violation of Section 55(k)(3) of the Act (415 ILCS 5/55(k)(3) (2012)).

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that John K. Croslow d/b/a Croslow's Auto Repair violated Section 55(k)(2) of the Environmental Protection Act (415 ILCS 5/55(k)(2) (2012)).
3. John K. Croslow must pay a civil penalty of \$1,500 no later than April 21, 2014, which is the first business day following the 30th day after the date of this order. John K. Croslow 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 John K. Croslow's social security number or federal employer identification number must be included on the certified check or money order.
4. John K. Croslow must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2013)).
6. The Board dismisses the alleged violation of Section 55(k)(3) of the Environmental Protection Act (415 ILCS 5/55(k)(3) (2012)) and John K. Croslow's petition to contest the administrative citation.

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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 20, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
JUL 16 2013
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
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v.)
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JOHN K. CROSLow D/B/A CROSLow'S)
AUTO REPAIR,)
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AC 14-7
(IEPA No. 156-13-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2010).

FACTS

1. That John K. Croslow d/b/a Croslow's Auto Repair is the current operator ("Respondent") of a facility located at 1421 Lexington Avenue, Lawrenceville, Lawrence County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Croslow's Auto Repair (f/k/a Croslow's Shell Station).
2. That said facility is designated with Site Code No. 1010155024.
3. That Respondent has operated said facility at all times pertinent hereto.
4. That on May 30, 2013 Garrison Gross, of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion Regional Office inspected the above-described facility. A copy of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 7-11-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 2998 6123.

VIOLATIONS

Based upon direct observations made by Garrison Gross during the course of the May 30, 2013 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent failed to collect a fee required under Section 55.8, a violation of Section 55(k)(2) of the Act, 415 ILCS 55(k)(2) (2010).
- (2) That Respondent failed to file a return required under Section 55.10, a violation of Section 55(k)(3) of the Act, 415 ILCS 55(k)(3) (2010).

CIVIL PENALTY

On May 17, 2012, the Board found John K. Croslow in violation of Sections 55(k)(2) and 55(k)(3) of the Act in AC 12-43.

Because this Administrative Citation addresses a second or subsequent violation of Sections 55(k)(2) and 55(k)(3) of the Act, pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), Respondent is subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for each violation, for a total of Six Thousand Dollars (\$6,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than August 15, 2013, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects 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 (2010), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent 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 Three Thousand Dollar (\$3,000.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2010), if Respondent fails to petition or elects 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, Respondent 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 Respondent 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 Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2010). If Respondent elects to contest this Administrative Citation, then Respondent 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 Respondent.

Lisa Bonnett *sr SOP*

Date:

7/4/13

Lisa Bonnett, Director
Illinois Environmental Protection Agency

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

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

JUL 16 2013

STATE OF ILLINOIS
Pollution Control Board

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AC **14-7**
(IEPA No. 156-13-AC)

FACILITY: Croslow's Auto Repair (f/k/a Croslow's Shell Station)
SITE CODE NO.: 1010155024
COUNTY: Lawrence
CIVIL PENALTY: \$6,000.00
DATE OF INSPECTION: May 30, 2013

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.