

ILLINOIS POLLUTION CONTROL BOARD
September 19, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-11
)	(IEPA No. 223-13-AC)
LOIS AND VIRGIL MELVIN,)	(Administrative Citation)
)	
Respondent.)	
)	

ORDER OF THE BOARD (by D. Glosser):

On August 28, 2013, the Illinois Environmental Protection Agency (Agency) filed an administrative citation against Lois and Virgil Melvin (respondents). *See* 415 ILCS 5/31.1 (2012); 35 Ill. Adm. Code 108. The administrative citation concerns a property located at 2426 West State Street, Rockford, Winnebago County. The property is commonly known to the Agency as the “Rockford/Melvin, Lois & Virgil” site and is designated with Site Code No. 2010306626. The Agency alleged that on July 11, 2013, respondents violated section 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21 (2012)) by causing or allowing water to accumulate in used/waste tires.

On September 10, 2013, the Agency filed a motion for voluntary dismissal of the administrative citation. In the motion, the Agency states that it failed to serve the citation on Lois and Virgil Melvin within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 108.202(b). The Board therefore grants the Agency’s motion, dismisses this case, and closes the docket. *See* 35 Ill. Adm. Code 108.402.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 19, 2013, 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
AUG 28 2013
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
LOIS AND VIRGIL MELVIN,)
Respondents.)

AC 14-11
(IEPA No. 223-13-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 Lois and Virgil Melvin are the owners ("Respondent's") of a facility located at 2426 West State Street, Rockford, Winnebago County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Rockford/Melvin, Lois & Virgil.
2. That said facility is designated with Site Code No. 2010306626.
3. That Respondents have owned said facility at all times pertinent hereto.
4. That on July 11, 2013, Donna Shehane of the Illinois Environmental Protection Agency's ("Illinois EPA") Rockford 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 8-26-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7011 1150 0001 0862 2957.

VIOLATIONS

Based upon direct observations made by Donna Shehane during the course of the July 11, 2013 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent's has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent's caused or allowed water to accumulate in used/waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), Respondent's are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent's elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 15, 2013, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent's elect 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's 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 One Thousand Five Hundred Dollar (\$1,500.00) 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's fail to petition or elect 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's 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's 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's in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have 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 Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

 Lisa Bonnett *sr SOP*

Date:

 8/16/13

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

RECEIVED
CLERK'S OFFICE
AUG 28 2013
STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
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v.)
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LOIS AND VIRGIL MELVIN,)
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AC 14-11
(IEPA No. 223-13-AC)

FACILITY: Rockford/Melvin, Lois & Virgil
SITE CODE NO.: 2010306626
COUNTY: Winnebago
CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: July 11, 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.