

ILLINOIS POLLUTION CONTROL BOARD
May 10, 2018

COUNTY OF LASALLE,)	
)	
Complainant,)	
)	
v.)	AC 18-9
)	(Administrative Citation)
JEFFREY SCHUSTER,)	
)	
Respondent.)	

ORDER OF THE BOARD (by B.K. Carter):

On March 7, 2018, the County of LaSalle (County) filed an administrative citation against Jeffrey Schuster. *See* 415 ILCS 5/31.1 (2016); 35 Ill. Adm. Code 108. The administrative citation concerns Mr. Schuster’s property located at 290 North 35th Road in Dimmick Township, LaSalle County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “Schuster Property” and is designated with Site Code No. 0998295005. The County alleged that on January 26, 2018, Mr. Schuster violated Sections 21(p)(1) and (p)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(2) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter and scavenging. For the reasons below, the Board dismisses the administrative.

As required by the Act (415 ILCS 5 (2016)), the County served Mr. Schuster with the administrative citation on February 22, 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. 108.200(b)(1). However, the Act also requires that the County file a copy of the administrative citation with the Board within 10 days after serving it on Mr. Schuster. 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 108.200(b)(3). “Compliance with the Act’s 10-day filing requirement is a jurisdictional prerequisite for the Board to hear or enter a default judgment on an administrative citation.” County of Vermilion v. Henry Nosler and Brandon Bott d/b/a B&B Construction, AC 16-1, slip op. at 2 (Nov. 15, 2015); *see also* County of Perry v. Mike Tilley, AC 07-3, slip op. at 2 (Aug. 17, 2006) (dismissing citation filed more than 10 days after service for lack of jurisdiction). Having served Mr. Schuster on February 22, 2018, the County was required to file the citation with the Board by March 5, 2018. 35 Ill. Adm. Code 101.300(a) (extending Sunday deadline). The Board received the citation from the County March 7, 2018, two days passed the filing deadline.

On April 12, 2018, the Board entered an order directing the County to file documentation reflecting the date on which the County provided a copy of the citation to the U.S. Postal Service. County of LaSalle v. Jeffrey Schuster, AC 18-9, slip op. at 2 (Apr. 12, 2018). If the Clerk receives a document by U.S. Mail after a filing deadline, it may be deemed filed on “[t]he date the document was provided to the U.S. Postal Service.” 35 Ill. Adm. Code 101.300(b)(2)(A). The documentation is necessary here to establish that the statutory 10-day

filing requirement was met. 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b)(3), 35 Ill. Adm. Code 108.200(b)(3). The April 12, 2018 order set a May 3, 2018 deadline for the County to file the documentation with the Board. The County failed to file the requested documentation. Therefore, on this record, the Board lacks jurisdiction to decide the County's administrative citation. Accordingly, the Board dismisses the administrative citation and closes the docket.

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
LaSalle County Governmental Complex Attn: Mark Anderson 707 Etna Road, Suite 251 Ottawa, IL 61350	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Jeffrey Schuster 290 North 35th Road LaSalle, IL 61301	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 10, 2018, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board