

ILLINOIS POLLUTION CONTROL BOARD  
August 6, 2015

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 15-31
	)	(IEPA No. 40-15-AC)
GEORGE WILLIAM "BILL" COLLINS,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On February 9, 2015, the Illinois Environmental Agency (Agency) timely filed an administrative citation against George William "Bill" Collins (respondent). *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent's facility located at 10603 & 10633 Bencie Lane, Frankfort, Franklin County. The property is commonly known to the Agency as the "West Frankfort/Collins-Bencie Lane" site and is designated with Site Code No. 0558045016. On April 2, 2015, the Board found that the respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2014)) and ordered the respondent to pay \$6,000 in civil penalties. On May 18, 2015, a corrected order was sent to respondent, merely changing the date at the top of the order from "April 2, 2014" to "April 2, 2015".

On June 18, 2015, the Board received motion to reconsider stating that respondent was not given an opportunity to comply with the citation and that he had not committed the violations claimed.

In ruling on a motion for reconsideration, the Board will consider factors including new evidence or a change in the law, to conclude that the Board's decision was in error. 35 Ill. Adm. Code 101.902. In Citizens Against Regional Landfill v. County Board of Whiteside, PCB 93-156 (Mar. 11, 1993), the Board observed that "the intended purpose of a motion for reconsideration is to bring to the court's attention newly discovered evidence which was not available at the time of hearing, changes in the law or errors in the court's previous application of the existing law." Korogluyan v. Chicago Title & Trust Co., 213 Ill. App. 3d 622, 627, 572 N.E.2d 1154, 1158 (1st Dist. 1992).

As required, the Agency served the respondent with the administrative citation on February 9, 2015, which is within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2014); *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) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due no later than March 16, 2015. The respondent failed to timely file a petition.

The respondent's motion to reconsider is denied. In his motion, respondent denies that he caused or allowed the violations; however, such a denial should have been filed in response to the administrative citation served on February 9, 2015. Failure to timely file a petition for review deprives the Board of jurisdiction to hear an appeal. *See e.g. County of Sangamon v. American Tress Service, Roy F. Throop*, AC 00-33 (Jan. 20, 2000). The motion to reconsider does not provide new evidence or a change in the law that persuades the Board that its April 2, 2015 decision was in error.

The Board will set forth the order in its entirety and include amended dates for penalties to be paid.

### **ORDER**

1. The Board finds that George William "Bill" Collins (respondent) violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2014)).
2. The respondent must pay a civil penalty of \$6,000 no later than September 7, 2015, which is the first business day following the 30th day after the date of this order. The respondent must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust. The case number, case name, and the respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. The respondent 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) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

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) (2014); *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 August 6, 2015, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
FEB 15 2015  
STATE OF ILLINOIS  
POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
v. )  
GEORGE WILLIAM "BILL" COLLINS )  
Respondent. )

AC 15-31  
(IEPA No.40-15-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 (2014).

FACTS

1. That George William "Bill" Collins ("Respondent") is the current owner and operator of a facility located at 10603 & 10633 Bencie Lane in rural Frankfort, Franklin County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as West Frankfort/Collins-Bencie Lane
2. That said facility is designated with Site Code No. 0558045016.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on January 7, 2015, Maggie Stevenson of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.
5. That on 2-4-15, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 5905.

## VIOLATIONS

Based upon direct observations made by Maggie Stevenson during the course of her January 2, 2015 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2014).
  
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2014).
  
- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in Deposition of General Construction or Demolition Debris: or Clean Construction or Demolition Debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2014).

## CIVIL PENALTY

On September 2, 2004, the Board found Bill Collins in violation of Section 21(p)(1) of the Act in AC 05-9. Because this Administrative Citation addresses a second or subsequent violation of Sections 21(p)(1), pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondent is subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for that violation and pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the violation of Section 21(p)(3) and Section 55(k)(1), 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 March 23, 2015 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 (2014), 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 Six Thousand Dollar (\$6,000.00) statutory civil penalty.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2014), 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 (2014). 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 <sup>KSR</sup>

Date:

2-4-15

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

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
v. )  
GEORGE WILLIAM "BILL" COLLINS, )  
Respondent. )

AC 15-31  
(IEPA No. 40-15-AC)



FACILITY: West Frankfort/Collins-Bencie Lane  
SITE CODE NO.: 0558045016  
COUNTY: Franklin  
DATE OF INSPECTION: January 7, 2015  
CIVIL PENALTY: \$6,000.00

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.