

ILLINOIS POLLUTION CONTROL BOARD

May 7, 2015

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 13-31
)	(Administrative Citation)
CHRISTOPHER WILL,)	
)	
Respondent.)	

ORDER OF THE BOARD (by J.D. O'Leary):

On July 25, 2013, the Board issued an order finding that the respondent, Christopher Will, had not filed an amended petition as directed by the Board. County of Jackson v. Christopher Will, AC 13-13, slip op. at 2 (July 25, 2013). Accordingly, the Board found that he had violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2012)) as alleged by the County in an administrative citation timely filed on January 11, 2013. County of Jackson v. Christopher Will, AC 13-13, slip op. at 2 (July 25, 2013). The order stated that "[t]he 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." *Id.* at 3, citing 35 Ill. Adm. Code 101.520, 101.902, 102.700, 102.702.

On April 13, 2015, the Board received a letter from Mr. Will, which the Board construes as a motion for reconsideration (Mot.). The letter states in pertinent part that "I am scheduling cleanup when weather seases (sic) and dries up. . . . Everything else has been cleaned up and disposed of. I have a 2 yd. dumpster that is full every week." Mot. at 1.

The letter construed as a motion for reconsideration was submitted to the Board more than 20 months after the July 25, 2013 order finding that Mr. Will had violated the Act. Accordingly, the motion for reconsideration is denied as untimely.

However, even if the Board reviewed Mr. Will's argument, that argument is not a valid defense to an administrative citation. The Board has long held that cleanup performed by a respondent after issuance of an administrative citation is neither a defense to the alleged violations nor relevant to determining the amount of a civil penalty. IEPA v. Jack Wright, AC 89-277, slip op. at 7 (Aug. 30, 1990). "The Act, by its terms, does not envision a properly issued administrative citation being dismissed or mitigated because a person is cooperative or voluntarily cleans-up the site." *Id.* In addition, the Board's ruling on a motion for reconsideration considers 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. A motion to reconsider may also specify "facts in the record that were overlooked." Wei Enterprises v. IEPA, PCB 04-23, slip op. at 3 (Feb. 19, 2004). The Board cannot conclude that Mr. Will's letter identifies any newly-

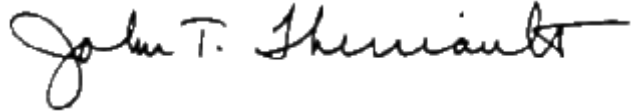
discovered evidence, changes in the law, errors in the Board's application of the law, or facts in the record that were overlooked. If the Board reviewed the argument raised in Mr. Will's untimely letter, it would find that he had not presented grounds to reconsider the July 25, 2013 order.

Also, the Board finds no evidence that Mr. Will served the County with a copy of his letter. Parties in Board adjudicatory proceedings are responsible for the service of all documents they file with the Clerk's Office. 35 Ill. Adm. Code 101.304(b). The party filing and serving the document is also responsible for providing proof of proper service, and a proceeding is subject to dismissal if service is not timely made. 35 Ill. Adm. Code 101.304(d).

For the reasons above, the Board construes Mr. Will's letter as a motion for reconsideration and denies the motion as untimely. If the Board reviewed the letter, it would find that it had not presented a basis to reconsider the Board's July 25, 2013 order.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 7, 2015, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION**

COUNTY OF JACKSON,

Complainant,

v.

CHRISTOPHER WILL,

Respondent.

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AC 13 - **31**
Site Code: 077 812 5014

RECEIVED
CLERK'S OFFICE
JAN 11 2013
STATE OF ILLINOIS
Pollution Control Board

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Christopher Will, is the present owner and occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.

2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 077 812 5014.

The facility is known to the Agency as the Pomona/Christopher Will site.

3. The Respondent has owned, occupied, controlled and/or operated the facility at all material times hereto.

4. On December 18, 2012, Don Terry, Field Inspector, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Don Terry's, direct observations, he has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on December 18, 2102, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

2. The Respondent has caused or allowed scavenging at the facility in violation of 415 ILCS 5/21(p)(2).

3. The Respondent has caused or allowed open burning at the facility in violation of 415 ILCS 5/21(p)(3).

4. The Respondent has caused or allowed, at the facility, the deposition of general construction or demolition debris; or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is 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 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 1, 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, 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 civil penalty fine stated above.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1), 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, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and
- (2) 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.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Complainant may either initiate proceedings against Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor, Murphysboro, IL 62966 **YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. YOUR PETITION MUST STATE THE REASON(S) YOU BELIEVE THE PRESENT MATTER SHOULD NOT BE ISSUED. IF YOU FAIL TO FILE YOUR PETITION AND STATE THE REASONS THE PRESENT MATTER SHOULD NOT BE ISSUED, A DEFAULT ORDER AGAINST YOU WILL BE ENTERED BY THE POLLUTION CONTROL BOARD.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

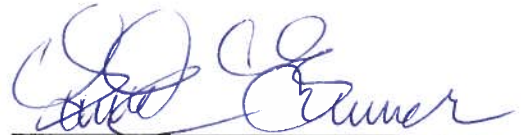
A copy must also be sent to:

Office of the State's Attorney
Daniel Brenner
Assistant State's Attorney

Jackson County Courthouse, 3rd Floor
Murphysboro, IL 62966

DATED: DEC. 31, 2012

MICHAEL C. CARR
Jackson County State's Attorney

A handwritten signature in blue ink, appearing to read "Daniel Brenner", is written over a horizontal line.

DANIEL BRENNER
Assistant State's Attorney
Jackson County, Illinois

REMITTANCE FORM TO COUNTY OF JACKSON

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	NO. AC 13 - 31
)	
CHRISTOPHER WILL,)	
)	
Respondent.)	

FACILITY:	Pomona/Christopher Will Site
COUNTY:	Jackson
DATE OF INSPECTION:	December 18, 2012
SITE CODE:	077 812 5014

Date Remitted _____

SS/FEIN # _____

Signature _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Shirley Dillinger Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois, 62966

REMITTANCE FORM TO ILLINOIS EPA

COUNTY OF JACKSON,

Complainant,

v.

CHRISTOPHER WILL,

Respondent.

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)
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NO. AC 13 - 31

FACILITY:

Pomona/Christopher Will Site

COUNTY:

Jackson

DATE OF INSPECTION:

December 18, 2012

SITE CODE:

077 812 5014

Date Remitted _____

SS/FEIN # _____

Signature _____

NOTE

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