

ILLINOIS POLLUTION CONTROL BOARD
July 25, 2013

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

OPINION AND ORDER OF THE BOARD (by J.D. O’Leary):

On January 11, 2013, the County of Jackson (County) timely filed an administrative citation against Christopher Will (Will). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Will’s property located at 6168 Hickory Ridge Road, Pomona, Jackson County. The property is commonly known to the County as the “Pomona/Christopher Will” site and is designated with Site Code No. 0778125014. For the reasons below, the Board finds that Mr. Will violated the Environmental Protection Act (Act) (415 ILCS 5 (2010)) and orders him to pay \$6,000 in civil penalties.

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Illinois Environmental Protection Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2010); 35 Ill. Adm. Code 108.

In this case, the County alleges that on December 18, 2012, Mr. Will violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2010)) by allowing open dumping at his facility. The County asks the Board to impose the statutory \$1,500 civil penalty per violation on Mr. Will, for a total civil penalty of \$6,000. As required, the County served Mr. Will with the administrative citation on January 4, 2013, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *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) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by February 8, 2013. Mr. Will timely filed a petition to contest the citation on February 7, 2013. On February 21, 2013, the Board issued an order accepting Mr. Will’s petition as timely filed, but requiring him to file an amended petition by March 25, 2013, to remedy the shortcomings specified in the order.

The Clerk of the Board attempted to serve the Board's February 21, 2013 order on Mr. Will, but the order was returned as undeliverable. In turn, the Board issued an order on May 2, 2013, giving Mr. Will until June 3, 2013 to file an amended petition. On May 20, 2013, this order too was returned as undeliverable. On June 6, 2013, the Board issued an order giving Mr. Will until July 8, 2013 to file an amended petition and directing the Clerk to serve copies of both that order as well as the February 21, 2013 order at Mr. Will's address of record, 6168 Hickory Ridge Road, Pomona, Illinois 62975. On June 14, 2013, the Board received a certified mail return receipt confirming delivery of these orders at the above address on June 11, 2013. No amended petition has been filed. Accordingly, the Board finds that Mr. Will violated Sections 21(p)(1), (p)(2), (p)(3) and (p)(7) of the Act.

The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5)(2010); 35 Ill. Adm. Code 108.500(a). Because there are four violations of Section 21(p) and no indication in the record that any of these is a second or subsequent adjudicated violation, the total civil penalty is \$6,000. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

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

ORDER

1. The Board finds that Mr. Will violated Sections 21(p)(1), (p)(2), (p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2010)).
2. Mr. Will must pay a civil penalty of \$6,000 no later than August 26, 2013, which is the first business day following the 30th day after the date of this order. Mr. Will must pay the civil penalty by certified checks or money orders, made payable in equal amounts (\$3,000 each) to the County of Jackson and the Illinois Environmental Protection Trust Fund. The case number, case name, and Mr. Will's social security number must be included on each certified check or money order.
3. Mr. Will must send the respective certified checks or money orders and the remittance forms to:

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

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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2010); *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 Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 25, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board