

ILLINOIS POLLUTION CONTROL BOARD
August 23, 2018

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 18-18
) (IEPA No. 77-18-AC)
KURT DOWNIE,) (Administrative Citation)
)
Respondent.)
)

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On June 13, 2018, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation (AC) alleging that Kurt Downie had violated the Public Water Supply Operations Act (PWSO Act) and the Board's public water supplies regulations. 415 ILCS 45/23.1 (2016) 35 Ill. Adm. Code 108.201; *see* 415 ILCS 5/31.1 (2016).

Under the PWSO Act, community water supplies other than exempt community water supplies must have on their operational staff at least one person certified as a Responsible Operator in Charge (ROINC), and all portions of the water supply system must be under the supervision of a ROINC. 415 ILCS 45/1 (2016). The duties of a ROINC include submission according to Board rules of consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results such as corrosion control reports and monitoring results. 415 ILCS 45/1.1(b)(3) (2016); 35 Ill. Adm. Code 603.103(g). Monthly operating reports must be submitted to IEPA within 30 days following the last day of the month. 35 Ill. Adm. Code 611.831.

IEPA states that Downie is currently the ROINC for three public water supplies: West Walnut Trailer Court (IL0995750), Village of Arlington (IL0110050), and Village of Malden (IL0110550). AC at 2.

On May 29, 2018, IEPA conducted a records review of the West Walnut Trailer Court public water supply. AC at 2; *see id.* at 8-10 (reviewer memorandum and affidavit). IEPA alleges that Downie violated Section 1.1(b)(3) of the PWSO Act (415 ILCS 45/1.1(b)(3) (2016)) and Section 603.103(g) and 611.831 of the Board's regulations (35 Ill. Adm. Code 603.103(g), 611.831)) by failing to submit monthly operating reports for the West Walnut Trailer Court public water supply within 30 days following the last day of the months of February, March, and April of 2018. AC at 2, 8, 10.

On May 30, 2018, IEPA conducted a records review of public water supplies for the Village of Arlington and the Village of Malden. AC at 2; *see id.* at 11-14 (reviewer

memorandum and affidavit). IEPA alleges that Downie violated Section 1.1(b)(3) of the PWSO Act (415 ILCS 45/1.1(b)(3) (2016)) and Section 603.103(g) and 611.831 of the Board's regulations (35 Ill. Adm. Code 603.103(g), 611.831)) by failing to submit monthly operating reports for the public water supplies of the Village of Arlington and the Village of Malden within 30 days following the last day of the months of February, March, and April of 2018. Ac at 2-3, 11, 13-14.

As required, IEPA served Downie with the administrative citation within "90 days after the date of discovery of the violation." 415 ILCS 45/23.1(b) (2016); *see also* 35 Ill. Adm. Code 108.201(b)(1). 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 45/23(d) (2016). The record in this case shows that Downie was served on June 27, 2018. Consequently, any petition for review was due by August 1, 2018. Downie failed to timely file a petition. Accordingly, the Board finds that Downie violated Section 1.1(b)(3) of the Public Water Supply Operations Act. 415 ILCS 45/1.1(b)(3) (2016); *see* 415 ILCS 45/23(d) (2016).

The civil penalty for violating Section 1.1(b)(3) is \$500 for each violation. *See* 415 ILCS 45/23.1(f) (2016). Because there are three violations of this section, the total civil penalty is \$1,500. Under Section 23.1(d)(1) of the PWSO 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 Kurt Downie violated Section 1.1(b)(3) of the Public Water Supply Operations Act (415 ILCS 45/1.1(b)(3) (2016)).
2. Kurt Downie must pay a civil penalty of \$1,500 no later than Monday, September 24, 2018, which is the first business day following the 30th day after the date of this order. Kurt Downie must pay the civil penalty by certified check made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Kurt Downie's social security number or federal employer identification number must be included on the certified check.
3. Kurt Downie must send the certified check 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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
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) (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
Illinois Environmental Protection Agency Attn: Assistant Counsel Michael S. Roubitchek 1021 North Grand Avenue East Springfield, Illinois 62794-9276 mike.roubitchek@illinois.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Kurt Downie 9154 North 600th Avenue Hennepin, Illinois 61327	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 23, 2018, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board