

ILLINOIS POLLUTION CONTROL BOARD
December 20, 2018

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
,)
Complainant,)
v.) AC 19-10
DANA MARSHALL,) (IEPA No. 151-18-AC)
Respondent.) (Administrative Citation)

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

On November 7, 2018, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against Dana Marshall. The administrative citation concerns property owned by Dana Marshall located at 1623 CR 3400N in Ludlow, Champaign County. The property is commonly known to IEPA as the “Ludlow/Marshall, Dana” site and is designated with Site Code No. 0190400001. For the reasons below, the Board finds that Dana Marshall violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders Dana Marshall to pay \$1,500 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 IEPA or, if IEPA 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) (2016); 35 Ill. Adm. Code 108.

In this case, IEPA alleges that on October 11, 2018, Dana Marshall violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2016)) by causing or allowing the open dumping of waste in a manner resulting in litter. IEPA asks the Board to impose the statutory \$1,500 civil penalty per violation on the respondent, for a total civil penalty of \$1,500. As required, IEPA served the respondent with the administrative citation on October 31, 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. 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) (2016); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by December 5, 2018. Dana Marshall failed to timely file a petition. Accordingly, the Board finds that Dana Marshall violated Section 21(p)(1) 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) (2016); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500. 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 Dana Marshall violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2016)).
2. Dana Marshall must pay a civil penalty of \$1,500 no later than Monday, January 7, 2019, which is the first business day following the 30th day after the date of this order. Dana Marshall must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Dana Marshall 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) (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 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) (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: Michelle M. Ryan, Assistant Counsel 1021 North Grand Avenue East PO Box 19276 Springfield, Illinois 62794-9276 | Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 |
| Dana Marshall 1623 County Road 3400N Ludlow, Illinois 60949 | |

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 20, 2018, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board