

ILLINOIS POLLUTION CONTROL BOARD
April 11, 2019

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 19-18
)	(IEPA No. 17-19-AC)
JAMES AND BETTY SPILLER AND SAUL)	(Administrative Citation)
CRUZ d/b/a THE MAGIC OF REPAIR,)	
)	
Respondents.)	

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

On February 7, 2019, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerns property owned by James and Betty Spiller and operated by Saul Cruz located at 2101 Galilee Avenue in Zion, Lake County. The property is commonly known to IEPA as the “Zion/Magic of Repair” site and is designated with Site Code No. 0972005152. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2016)) and orders James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair 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 January 8, 2019, respondents violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2016)) by causing or allowing water to accumulate in used or waste tires. IEPA asks the Board to impose the statutory \$1,500 civil penalty per violation on respondents, for a total civil penalty of \$1,500.¹ As required, IEPA served the administrative citation on Saul Cruz on February 11, 2019, and on James and Betty Spiller on February 14, 2019. Both dates are within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2016); *see* 35 Ill. Adm. Code 101.300(c), 108.200(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

¹ IEPA refers at a single point on page two of the citation to a penalty of “Three Thousand Dollars (\$1,500.00),” but the Board considers the reference to a \$3,000 penalty as inadvertent.

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 from Saul Cruz by March 18, 2019, and from James and Betty Spiller by March 21, 2019. Each of the respondents failed to file a timely petition. Accordingly, the Board finds that James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair violated Section 55(k)(1) of the Act.

The civil penalty for violating any provision of Section 55(k) 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 55(k) and no indication in the record that this is a second or subsequent adjudicated violation by any of the respondents, 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 findings of fact and conclusions of law.

ORDER

1. The Board finds that James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair violated Section 55(k)(1) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2016)).
2. James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair must pay a civil penalty of \$1,500 no later than Monday, May 13, 2019, which is the first business day following the 30th day after the date of this order. James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair 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 respondents' respective social security numbers or federal employer identification numbers must be included on the certified check or money order.
3. James and Betty Spiller and Saul Cruz d/b/a The Magic of Repair 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 P.O. 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
James and Betty Spiller 912 Monroe Avenue Winthrop Harbor, Illinois 60096-1537	
Saul Cruz The Magic of Repair 2101 Galilee Zion, Illinois 60099	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 11, 2019, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board