

ILLINOIS POLLUTION CONTROL BOARD  
June 19, 2014

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 13-7  
 ) (IEPA No. 175-12-AC)  
ROBERT MANKER, ) (Administrative Citation)  
 )  
Respondent. )

SCOTT B. SIEVERS, ESQ. APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

ROBERT MANKER APPEARED *PRO SE*.

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On May 15, 2014, the Board issued an interim opinion and order, finding that Robert Manker (respondent) violated Section 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), 21(p)(7) (2012)). The case concerns respondent's facility located at 2287 West Street, Literberry, Morgan County (the Site). The June 6, 2012 violations were alleged in an administrative citation issued by the Illinois Environmental Protection Agency (Agency). The Site is known to the Agency as "Literberry/Manker" and designated with Site Code No. 1378580003.

In the May 15, 2014 order, after the Board found respondent had violated the Act, the Board held that under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2012)), respondent was subject to the statutorily-fixed penalty of \$4,500. In addition, the Board held that respondent, by unsuccessfully contesting the administrative citation at hearing, must pay the hearing costs of the Agency and the Board. The hearing in this case was held on January 29, 2014 at the City Hall in Jacksonville, Morgan County.

Because the record in this matter contained no information on hearing costs, the Board directed the Agency and the Clerk of the Board each to file documentation of the respective hearing costs, supported by an affidavit, and to serve the filing on respondent. The Board also gave respondent until June 12, 2014 to respond to the documentation of hearing costs and noted that after the time periods for these filings had expired, the Board would issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

On May 22, 2014, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$319.75, the entirety of which reflects the costs of court reporting. The Clerk served this documentation on respondent. On May 29, 2014, the Board received the Agency's

statement of hearing costs, supported by affidavit, which the Agency served on respondent. The Agency's hearing costs total \$43.68, consisting of mileage to and from the hearing. *See* 35 Ill. Adm. Code 108.502-108.506. Respondent did not file a response to either the Agency's statement of hearing costs or the Clerk's affidavit.

The Board finds the hearing costs of the Board and the Agency reasonable and below orders respondent to pay those costs under Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2012)). The Board incorporates by reference the findings of fact and conclusions of law from its May 15, 2014 interim opinion and order. Under Section 31.1(d)(2) of the Act (415 ILCS 5/31.1(d)(2) (2012)), the Board attaches the administrative citation and makes it part of the Board's final order.

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

### **ORDER**

1. The Board finds that Robert Manker (respondent) violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2012)).
2. The Board assesses the statutory civil penalty of \$4,500 for the violation, as well as hearing costs totaling \$363.43, for a total amount of \$4,863.43. Respondent must pay \$4,863.43 no later than August 4, 2014, which is the first business day following the 45th day after the date of this order. Respondent must pay this amount 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. Respondent must send the certified check or money order to:  
  
Illinois Environmental Protection Agency  
Attn: Fiscal Services  
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 Act (415 ILCS 5/42(g) (2012)) 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 violation continues.

IT IS SO ORDERED.

Section 41(a) of the 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) (2012); *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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion order on June 19, 2014, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Clerk  
Illinois Pollution Control Board



5. That on 7-16-12, Illinois EPA sent this Administrative Citation via Certified Mail No. 7009 2820 0001 7496 1480.

VIOLATIONS

Based upon direct observations made by Mark Weber during the course of his June 6, 2012 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).
  
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2010).
  
- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 (\$4,500.00). 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 August 31, 2012, 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 (2010), 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 One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2010), 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, Respondent's check shall be made payable to the 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. Along with payment, Respondent shall complete and return the enclosed Remittance Form 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 Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2010). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

  
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John J. Kim, Interim Director  
Illinois Environmental Protection Agency

Date: 7/16/2012

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

REMITTANCE FORM

RECEIVED  
CLERK'S OFFICE  
JUL 23 2012  
STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
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v. )  
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ROBERT MANKER, )  
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 )  
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 )  
Respondent. )

AC 13-1  
(IEPA No. 175-12-AC)

FACILITY: Literberry/Manker  
SITE CODE NO.: 1378580003  
COUNTY: Morgan  
CIVIL PENALTY: \$4,500.00  
DATE OF INSPECTION: June 6, 2012

DATE REMITTED:  
SS/FEIN NUMBER:  
SIGNATURE:

NOTE

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