

ILLINOIS POLLUTION CONTROL BOARD
July 9, 2015

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 14-22
) (IEPA No. 261-13-AC)
ROGER RAY,) (Administrative Citation)
)
Respondent.)

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

On October 22, 2014, the Illinois Environmental Protection Agency (Illinois EPA) timely filed an administrative citation against Roger Ray. *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Ray’s unoccupied house and garage located on Kirksville Road in Kirksville, Moultrie County commonly known to Illinois EPA as the “Kirksville/Ray, Roger” site and designated with Site Code No. 1398065001. Illinois EPA alleged that on September 4, 2014, respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7), of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2014)) by causing or allowing the open dumping of waste leading to litter, open burning, and the deposition of general construction or demolition debris or clean construction or demolition debris.

On June 30, 2015, the Illinois EPA filed a motion to withdraw the administrative citation (Motion). The Illinois EPA states that, “[b]ased upon facts and circumstances discovered since the filing of the Administrative Citation, Illinois EPA has determined that it is prudent to withdraw this Administrative Citation at this time.” Motion at 1. The Board grants the Illinois EPA’s motion, dismisses the case, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 9, 2015, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board

5. That on 10-15-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 2973 8609.

VIOLATIONS

Based upon direct observations made by Dustin Burger during the course of the September 4, 2013 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)(1) 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

On June 17, 2004, the Board found Ray Rogers in violation of Section 21(p)(1) and 21(p)(3),

of the Act in AC 04-08. Because this Administrative Citation addresses a second or subsequent violation of Section 21(p)(1) and 21(p)(3) of the Act, 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 Three Thousand Dollars (\$3,000.00) for each of those violations. Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the violation of Section 21(p)(7), for a total of Seven Thousand Five Hundred Dollars (\$7,500.00). 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 November 15, 2013, 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 Seven Thousand Five Hundred Dollar (\$7,500.00) assessed statutory civil penalty.

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.



Lisa Bonnett, Director
Illinois Environmental Protection Agency

Date: 10/11/13

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
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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
v.)
ROGER RAY,)
Respondent.)

AC *14-22*
(IEPA No. 261-13-AC)

FACILITY: Kirksville/Ray, Roger
SITE CODE NO.: 1398065001
COUNTY: Moultrie
CIVIL PENALTY: \$7,500.00
DATE OF INSPECTION: September 4, 2013

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.