

ILLINOIS POLLUTION CONTROL BOARD  
November 21, 2013

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 14-10
	)	(IEPA No. 169-13-AC)
DANIEL DAWSON,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by D. Glosser):

On August 12, 2013, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Daniel Dawson (respondent). The administrative citation concerns respondent's residential property located at 13358 E. 75 N Road in Heyworth, McLean County. The property is commonly known to the Agency as the "Heyworth/Dawson" site and is designated with Site Code No. 1138250009. On October 3, 2013, the Board accepted respondent's petition to contest the administrative citation, but directed respondents to file an amended petition to cure deficiencies identified in the order by November 4, 2013. On November 7, 2013, respondent filed an amended petition. The petition was timely filed because it was postmarked on or before the filing deadline.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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 the Agency or, if the Agency 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) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on July 2, 2013, respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (7) (2012)) by causing or allowing open dumping in a manner resulting in litter and deposition of general construction or demolition debris, or clean construction or demolition debris at the McLean County site. The Agency asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$3,000.

As required, the Agency served the administrative citation on respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by September 26, 2013. On September 30, 2013, respondent timely filed a petition (Pet.). The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). On November 7, 2013,

respondent filed an amended petition. The amended petition was timely filed because it was postmarked on or before the filing deadline.

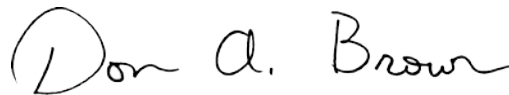
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2012). By contesting the administrative citation, respondent may have to pay the hearing costs of the Board and Agency. *See* 415 ILCS 5/42(b)(4-5) (2012); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If respondent chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondent withdraws his petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and Agency. *See id.* at 108.500(c).

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2012); 35 Ill. Adm. Code 108.400. If the Board finds that respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (7) (2012)), the Board will impose civil penalties on respondent. 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) (2012); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondent "has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2012); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Don A. Brown, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 21, 2013, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Acting Clerk  
Illinois Pollution Control Board