

ILLINOIS POLLUTION CONTROL BOARD  
May 20, 2021

COUNTY OF LASALLE,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 21-04
	)	(IEPA No. 0998145008)
WILLIAM WILBURN,	)	(Administrative Citation)
	)	
Respondent.	)	
	)	

ORDER OF THE BOARD (by A. Palivos):

On April 5, 2021, County of LaSalle (LaSalle County) timely filed an administrative citation against William Wilburn (Wilburn). *See* 415 ILCS 5/31.1(c) (2018); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Wilburn’s residential property located at 205 E. Broad Street in Rutland, LaSalle County. The property is commonly known to the Illinois Environmental Protection Agency as the “Wilburn Property” site and is designated with Site Code No. 0998145008. For the reasons below, the Board accepts Wilburn’s petition to contest the administrative citation but directs Wilburn to file an amended petition to cure the petition’s deficiency identified in this order.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), 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) (2018); 35 Ill. Adm. Code 108.

In this case, LaSalle County alleges that on March 16, 2021, Wilburn violated Section 21(p)(1), (2), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (2), (3), and (7) (2018)) by causing or allowing open dumping resulting in litter, scavenging operations, open burning, and deposition of general construction or demolition debris at the LaSalle County site. LaSalle County asks the Board to impose on Wilburn the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$6,000.

As required, LaSalle County served the administrative citation on Wilburn within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2018); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by May 14, 2021. On May 5, 2021, Wilburn timely filed a petition. *See* 415 ILCS 5/31.1(d) (2018); 35 Ill. Adm. Code 101.300(b), 108.204(b).

A petition must set forth grounds for why a respondent believes that the administrative citation was improperly issued. *See* Ill. Adm. Code 108.206. Those grounds include:

- a) the respondent does not own the property,
- b) the respondent did not cause or allow the alleged violation,
- c) the citation was not timely filed or properly served, or
- d) the alleged violation was the result of uncontrollable circumstances. 35 Ill. Adm. Code 108.206. *See also* IEPA v. Bobby G. Myers and Donald D. Myers, AC 07-30, slip op. at 11 (May 21, 2009).

Here, the Board accepts Wilburn's petition as timely filed. Furthermore, the petition provides ground for contesting the administrative citation because it states that "the property has been sold and was in the process of paperwork." *See* Ill. Adm. Code 108.206(a).

However, Wilburn must serve a copy of the petition on LaSalle County and file proof of that service with the Board by Monday, June 21, 2021, which is the first business day following the 30th day after the date of this order. *See* 35 Ill. Adm. Code 101.304.

Finally, if Wilburn timely files proof of service and then does not prevail on the merits of the case, Wilburn will have to pay not only the civil penalty but also any hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2018); 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 website at [www.icpb.state.il.us](http://www.icpb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 20, 2021, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board