

ILLINOIS POLLUTION CONTROL BOARD
March 19, 2009

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 09-35
)	(IEPA No. 13-09-AC)
WILLIAM AND PATRICIA HAJEK,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by G.T. Girard):

On February 13, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against William and Patricia Hajek (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' residential property located at 1683 McAllister Road, Waterman, DeKalb County. For the reasons below, the Board accepts the respondents' amended petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 it has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter, and in a manner resulting in the deposition of clean or general construction or demolition debris at respondents' DeKalb County site. The Agency asks the Board to impose a \$1,500.00 civil penalty on respondents for each violation, for a total penalty of \$3,000.00.

As required, the Agency served the administrative citation on William and Patricia Hajek within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). A petition to contest the administrative citation is due by March 25, 2009. On February 24, 2009, William Hajek timely filed a petition to contest the administrative citation; however Patricia Hajek had not signed the petition. On March 5, 2009, the Board directed the respondents to file an amended petition and on March 13, 2009, the Board received an amended petition filed *pro se* and signed by both respondents. Respondents deny the

allegations, stating that not all of the materials on site are waste (Pet. at 1-4.), and that the “severity of the winter storms” has prevented him from removing those which are waste. *Id*; see 35 Ill. Adm. Code 108.206.

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) (2006). By contesting the administrative citation, respondents may have to pay the hearing costs of the Board and the Agency. See 415 ILCS 5/42(b)(4), (4-5) (2006); 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. See 35 Ill. Adm. Code 108.504.

Respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. See 35 Ill. Adm. Code 108.208. If respondents withdraw their petition after the hearing starts, the Board will require them to pay the hearing costs of the Board and the Agency. See *id.* at 108.500(c).

The Agency has the burden of proof at hearing. See 415 ILCS 5/31.1(d)(2) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated Section 21(p)(1) and (p)(7) of the Act, the Board will impose civil penalties on them. The civil penalty for violating any provision of subsection (p) of Section 21 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), (4-5) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents “ha[ve] 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) (2006); see also 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 19, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board