

ILLINOIS POLLUTION CONTROL BOARD
January 7, 2010

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 10-06
)	(IEPA No. 282-09-AC)
LARRY M. ISON,)	(Administrative Citation)
)	
Respondent.)	
)	

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

On November 12, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Larry M. Ison (respondent). *See* 415 ILCS 5/31.1(c) (2008)¹; 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the respondent’s facility located at 1234 North 10th Street, Mount Vernon, Jefferson County. The property is commonly known to the Agency as the “Mt. Vernon/Ison, Larry M.” site and is designated with Site Code No. # 0810305241. For the reasons below, the Board accepts the respondent’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 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) (2008); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on September 14, 2009, the respondent violated Sections 21(p)(1) of the Act (415 ILCS 5/2(p)(1) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter at the respondent’s Jefferson County site. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on the respondent.

As required, the Agency served the administrative citation on the respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2008); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by December 15, 2009. On December 16, 2009, the respondent timely filed a petition. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

5/31.1(d) (2008); 35 Ill. Adm. Code 101.300(b), 108.204(b). The respondent denies that he is the operator of a facility located at said address and further denies that he has “dumped” or allowed to be dumped any prohibited items which are the subject matter of the enforcement provisions of the Illinois EPA. *See* 35 Ill. Adm. Code 108.206.

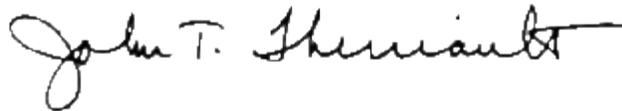
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 415 ILCS 5/31.1(d)(2) (2008); 35 Ill. Adm. Code 108.300. By contesting the administrative citation, the respondent may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)[(4) or (4-5)] (2008); 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.

The respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If the respondent chooses to withdraw his petition, he must do so in writing, unless he do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the respondent withdraws his petition after the hearing starts, the Board will require the 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) (2008); 35 Ill. Adm. Code 108.400. If the Board finds that the respondent violated Sections 21(p)(1) the Board will impose civil penalties on the respondent. 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)(4-5) (2008); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that the 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) (2008); *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 January 7, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board