

ILLINOIS POLLUTION CONTROL BOARD

March 4, 2010

COUNTY OF VERMILION,)
)
Complainant,)
)
v.) AC 10-13
) (Administrative Citation)
CHARLES LONG,)
)
Respondent.)

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

On January 13, 2010, the County of Vermilion (County) timely filed an administrative citation against Charles Long. (respondent). *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s mobile home park located 133 Williams Street, Danville, Vermilion County. For the reasons below, the Board accepts 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 Illinois Environmental Protections Agency (IEPA) or, if the IEPA 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 County alleges that on November 10, 2009, respondent violated Section 21(p) (1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2008)) by open dumping of waste in a manner resulting in litter, open burning, and deposition of construction or demolition debris, at respondent’s Vermilion County site. The County asks the Board to impose the statutory \$4,500 civil penalty on respondent.

As required, County served the administrative citation on respondent 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 February 16, 2010. On February 16, 2010, respondent timely filed a petition. *See* 415 ILCS 5/31.1(d) (2008); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent alleges that the facility is not an open dump, the conditions are not the result of respondent’s actions, and that respondent did not cause or allow open dumping. *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) (2008). By contesting the administrative

citation, respondent may have to pay the hearing costs of the Board and County. *See* 415 ILCS 5/42(b)(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.

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

The County 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 respondent violated Section 21(p) (1), (3) and (7) of the Act (415 ILCS 5/21(p)(1), (3) and (7) (2008)), the Board will impose civil penalties on 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 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 March 4, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board