

ILLINOIS POLLUTION CONTROL BOARD  
September 2, 2010

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 11-4  
 ) (IEPA No. 228-10-AC)  
KAREN L. ALLEN, ) (Administrative Citation)  
 )  
Respondent. )

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

On July 30, 2010, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Karen L. Allen (Ms. Allen). *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Ms. Allen’s facility located at 17167 Africa Road in Thompsonville, Williamson County. The property is commonly known to the Agency as the “Thompsonville/Allen, Karen L.” site and is designated with Site Code No. 1998535008. For the reasons below, the Board accepts Ms. Allen’s petition to contest the administrative citation as timely filed, but directs Ms. Allen to file an amended petition to cure deficiencies identified in this order.

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), 55(k), 31.1(c), 42(b)(4), (4-5) (2008); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on July 1, 2010, Ms. Allen violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris at Ms. Allen’s Williamson County site. The Agency asks the Board to impose the statutory \$1,500 civil penalty on Ms. Allen for each of her alleged violations of Section 21(p), for a total civil penalty of \$4,500. *See* 415 ILCS 5/42(b)(4-5) (2008).

As required, the Agency served the administrative citation on Ms. Allen 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 September 2, 2010. On August 19, 2010, a petition (Pet.) was timely filed. *See* 415 ILCS 5/31.1(d) (2008; 35 Ill. Adm. Code 101.300(b), 108.204(b). However, the petition was filed by a Mr. Walter Allen (Mr. Allen), who alleges that the debris is either being recycled or in the

process of being removed. Mr. Allen also alleges that he mistakenly believed that Ms. Stevenson, an Agency representative, was monitoring the site after informing him of open burning violations at the site. Specifically, Mr. Allen maintains that he “was not intentionally making violations,” and will sort and transport all debris to an approved landfill. Pet. at 2; *see* 35 Ill. Adm. Code 108.206.

The Board accepts the petition as timely filed but finds that the petition contains deficiencies that must be remedied before the case can be accepted for hearing. The petition does not sufficiently allege any grounds for appeal. 35 Ill. Adm. Code 108.206. Initially, the Board notes that cleanup is not a defense to a properly issued administrative citation. IEPA v. Jack Wright, AC 89-227, slip op. At 7 (Aug. 30, 1990). In addition, as noted above, the petition was filed by Mr. Allen and concerned Mr. Allen’s connection with the alleged violations. Though an individual may represent himself or herself, a non-attorney cannot represent another person in a Board adjudicatory proceeding, such as an administrative citation action. Accordingly, Ms. Allen must appear herself or through an attorney-at-law licensed and registered to practice law. 35 Ill. Adm. Code 101.400(a)(2). Finally, there is no indication that Ms. Allen served the Agency with a copy of the petition as required. 35 Ill. Adm. Code 101.304.

Under these circumstances, the Board directs Ms. Allen to file an amended petition herself or through an attorney by October 4, 2010, which is the first business day following the 30th day after the date of this order. IEPA v. Ray Logsdon Estate, AC 05-54 (Mar. 3, 2005) (accepting as timely filed a petition that did not indicate whether it was filed by an attorney but requiring an amended petition to cure the deficiency). The amended petition must clearly state one or more acceptable grounds for contesting the administrative citation. 35 Ill. Adm. Code 108.206. Ms. Allen must also serve a copy of the amended petition upon the Agency and file proof of service with the Board. 35 Ill. Adm. Code 101.304. If Ms. Allen fails to file an amended petition in accordance with this order, the Board will dismiss the petition and enter a default order against Ms. Allen, finding the violations alleged and imposing the corresponding \$4,500 civil penalty. Ray Logsdon Estate, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing an amended petition as directed to cure the deficiency in the original petition).

If Ms. Allen proceeds to contest the administrative citation but does not prevail on the merits of this case, Ms. Allen may have to pay not only the \$4,500 civil penalty, but also any hearing costs of the Board and the Agency. 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.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 2, 2010, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board