

ILLINOIS POLLUTION CONTROL BOARD
November 18, 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. *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 site located at 17167 Africa Road in rural 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 for hearing Ms. Allen's amended 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. *See* 415 ILCS 5/21(o), (p), 22.51, 22.51a, 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 the 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).

In its September 2, 2010 order, the Board found that the original petition filed on behalf of Ms. Allen, while timely, was deficient. The Board gave Ms. Allen until October 4, 2010, to file an amended petition curing the identified deficiencies. In an October 21, 2010 order, the Board found that Ms. Allen's *pro se* amended petition was timely filed and stated sufficient grounds to contest the citation. However, the Board ordered Ms. Allen to file proof, by November 11, 2010, that she served a copy of the amended petition upon the Agency. On

November 1, 2010, Ms. Allen timely filed proof that on September 27, 2010, the Agency was so served. The Board therefore accepts the amended petition for hearing.

The Board 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, Ms. Allen may have to pay the hearing costs of the Board and the Agency. *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.

Ms. Allen may withdraw her amended petition to contest the administrative citation at any time before the Board enters its final decision. If Ms. Allen chooses to withdraw her amended petition, she must do so in writing, unless she does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Ms. Allen withdraws her amended petition after the hearing starts, the Board will require Ms. Allen 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) (2008); 35 Ill. Adm. Code 108.400. If the Board finds that Ms. Allen violated Section 21(p)(1), (p)(3), or (p)(7), the Board will impose civil penalties on Ms. Allen. 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 Ms. Allen "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 November 18, 2010, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board