

ILLINOIS POLLUTION CONTROL BOARD
June 5, 2014

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 14-46
) (IEPA No. 101-14-AC)
JEANETTA and GARY MADDOCK,)
)
Respondents.)

ORDER OF THE BOARD (by J.A. Burke):

On April 18, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Jeanetta and Gary Maddock (respondents). The administrative citation concerns respondent's residential property located at 6728 & 6732 South US Highway 45 in Brookport, Massac County. The property is commonly known to the Agency as the "Brookport/Maddock" site and is designated with Site Code No. 1278600003. For the reasons below, the Board accepts respondent's petition to contest the administrative citation, but directs respondents to file an amended petition to cure deficiencies identified in this order.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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 by the Agency for limited types of alleged violations. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on March 26, 2014 respondents violated Sections 21(p)(1), (p)(2), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(2), (p)(3), (p)(7) (2012)) by causing or allowing open dumping in a manner resulting in litter, scavenging, open burning, and deposition of general construction or demolition debris or clean construction or demolition debris at their property. The Agency asks the Board to impose on respondents the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$6,000.

As required, the Agency served the administrative citation on respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by May 23, 2014. On May 16, 2014, Gary Maddock timely filed a petition (Pet.). A petition must set forth recognized grounds for why a respondent believes that the administrative citation was improperly issued. *See* 35 Ill. Adm. Code 108.206. Those grounds are provided in Section 108.206 of the Board's rules, and include:

- a) the respondent does not own the property,

- b) the respondent did not cause or allow the alleged violation,
- c) the citation was not timely filed or properly served, or
- d) the alleged violation was the result of uncontrollable circumstances. 35 Ill. Adm. Code 108.206. *See also* IEPA v. Bobby G. Myers and Donald D. Myers, AC 07-30, slip op. at 11 (May 21, 2009).

The Board notes that cleanups performed by a respondent after issuance of an administrative citation are generally neither a defense to the violations alleged nor relevant to determining the civil penalty amount. *See* IEPA v. Jack Wright, AC 89-227, slip op. at 7 (Aug. 30, 1990) (“The Act, by its terms, does not envision a properly issued administrative citation being dismissed or mitigated because a person is cooperative or voluntarily cleans-up the site”).

Also, while an individual may represent himself before the Board, a non-attorney cannot represent another person in a Board adjudicatory proceeding, such as an administrative citation action. *See* 35 Ill. Adm. Code 101.400(a). The petition for review was signed by Gary Maddock. Unless Mr. Maddock is an attorney, he cannot represent Jeanetta Maddock. Therefore, an amended petition must be filed that either states Mr. Maddock is an attorney, or that is signed by both Gary Maddock and Jeanetta Maddock. *See* 35 Ill. Adm. Code 108.206. A copy of the amended petition must also be sent to the Agency, and the respondents must provide proof to the Board that they have served the amended petition on the Agency.

If no amended petition is filed with the Board by July 7, 2014, which is the first business day following the 30th day after the date of this order, respondent’s petition will be dismissed and a default order will be entered against them, imposing the statutory \$6,000 civil penalty. *See* Ray Logsdon Estate, AC 05-54 (Apr. 21, 2005). If an amended petition is filed pursuant to this order and respondents do not prevail on the merits of the case, respondents will have to pay hearing costs of the Board and the Agency in addition to the civil penalty. *See* 415 ILCS 5/42(b)(4-5) (2010); 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 website at www.icpb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 5, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board