

ILLINOIS POLLUTION CONTROL BOARD
October 16, 2014

MACON COUNTY)	
ENVIRONMENTAL MANAGEMENT)	
DEPARTMENT,)	
)	
Complainant,)	
)	
v.)	AC 15-006
)	(IEPA No. 2014-001-AC)
KEVIN E. WOODRUFF,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by D. Glosser):

On August 14, 2014, the Macon County Environmental Management Department (Macon County) timely filed an administrative citation against Kevin E. Woodruff (respondent). The administrative citation concerns respondent's property located at 3878 W. Center St., Decatur, Macon County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the "Decatur Twp./Woodruff" site and is designated with Site Code No. 1158025024. For the reasons below, the Board accepts respondent's petition to contest the administrative citation, but directs respondent 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 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), 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, Macon County alleges that on July 28, 2014, respondent violated Sections 21(p)(1), 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2012)) by causing or allowing open dumping in a manner resulting in litter, open burning, and in deposition of general construction or demolition debris. Macon County asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$4,500.

As required, Macon County served the administrative citation on respondent 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 September 26, 2014. On September 18, 2014, respondent 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* Ill. Adm. Code 108.206. Those grounds are provided in Section 108.206 of the Board's rules, and include:

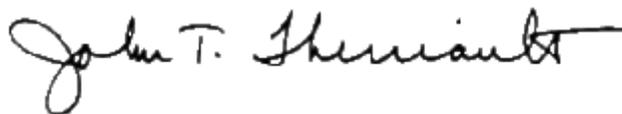
- a) the respondent does not own the property,
- b) the respondent did not cause or allow the alleged violation,
- c) the citation was not timely filed or properly served, or
- d) the alleged violation was the result of uncontrollable circumstances. 35 Ill. Adm. Code 108.206. *See also* IEPA v. Bobby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

Although the Board accepts respondent's petition as timely filed, the Board finds that the petition is deficient. In the petition, respondent does not set forth any recognized grounds for why respondent believes that the administrative citation was improperly issued. Deficiencies of the respondent's petition must be remedied before the case can be accepted for hearing. A petition must set forth recognized grounds for why a respondent believes that the administrative citation was improperly issued. *See* 5 Ill. Adm. Code 108.206.

The Board therefore directs that the respondent file an amended petition with the Board that states one or more recognized grounds on which he contests the administrative citation. *See, e.g.,* County of Jackson v. Dan Kimmel, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). If no amended petition is filed with the Board by November 17, 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 \$4,500 civil penalty. *See* Ray Logsdon Estate, AC 05-54 (Apr. 21, 2005). If an amended petition is filed pursuant to this order and respondent does not prevail on the merits of the case, respondent will have to pay not only the civil penalty but also any hearing costs of the Board and Macon County. *See* 415 ILCS 5/42(b)(4-5) (2012); 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 October 16, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board