

ILLINOIS POLLUTION CONTROL BOARD  
November 6, 2014

MACON COUNTY ENVIRONMENTAL	)	
MANAGEMENT DEPT.,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 15-6
	)	(MCEMD No. 2014-001: 1158025024)
KEVIN WOODRUFF,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by D. Glosser):

On August 14, 2014, Macon County Environmental Management Department (Macon County) timely filed an administrative citation against Kevin Woodruff (Mr. Woodruff). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Woodruff’s property located at 3878 W. Center St., Decatur, Macon County. The property is designated by Macon County as Site Code No. MCEMD No. 2014-001: 1158025024.

On September 18, 2014, Mr. Woodruff timely filed a petition for review. On October 16, 2014, the Board accepted Mr. Woodruff’s petition as timely, but directed him to file an amended petition by November 17, 2014, to cure deficiencies in the September 18, 2014 petition. For the reasons below, the Board accepts Mr. Woodruff’s amended petition to contest the administrative citation.

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, Mr. Woodruff violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (3), and (7) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and deposition of general construction or demolition debris as defined. Macon County asks the Board to impose upon Mr. Woodruff 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 Mr. Woodruff 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 19, 2014. On September 18, 2014, Mr. Woodruff timely filed a petition, and on October 16, 2014, Mr. Woodruff timely filed this amended petition. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). Mr. Woodruff alleges that he has not brought any waste, trash debris or litter onto the property. Moreover, Mr. Woodruff alleges that he had contracted to have a demolished dangerous structure removed from his property and properly disposed. However, Mr. Woodruff contends that before he could arrange for removal of this structure, a spark from a nearby burn pile ignited the remains of the structure and set it on fire. Consequently, Mr. Woodruff contends that these circumstances were unforeseeable and beyond his control, and thus should not subject him to liability under the Act. *See* 35 Ill. Adm. Code 108.206.

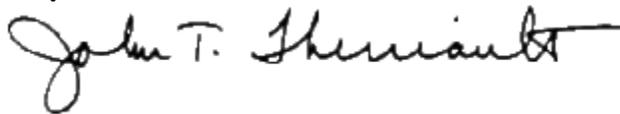
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2012). By contesting the administrative citation, Mr. Woodruff may have to pay the 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 Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

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

Macon County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2012); 35 Ill. Adm. Code 108.400. If the Board finds that Mr. Woodruff violated Sections 21(p)(1),(3), and (7), the Board will impose civil penalties on Mr. Woodruff. The civil penalty for violating any provision of Section 21(p) 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) (2012); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Mr. Woodruff "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) (2012); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 6, 2014, by a vote of 4-0.




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John T. Therriault, Clerk  
Illinois Pollution Control Board

