

ILLINOIS POLLUTION CONTROL BOARD
February 4, 2016

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 16-5
)	(IEPA No. IEPA No. 333-15-AC)
RONALD W. FALMIER AND SUSAN A.)	(Administrative Citation)
FALMIER,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On November 6, 2015, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ronald W. and Susan A. Falmier (respondents). The administrative citation concerns respondents' property located at 206 Powell Road in Carterville, Williamson County. The property is commonly known to the Agency as "Falmier's Auto Salvage & Towing" and is designated with Site Code No. 1990155032. For the reasons below, the Board accepts respondents' amended petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), 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) (2014); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on September 24, 2015, respondent violated Sections 21(p)(1), 21(p)(3), 21(p)(5), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(5), 55(k)(1) (2014)) by causing or allowing open dumping in a manner resulting in litter, open burning, proliferation of disease vectors, and by causing or allowing water to accumulate in used or waste tires at the Williamson County site. 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 timely served the administrative citation on respondents on November 2, 2015. 415 ILCS 5/31.1(b) (2014); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by December 7, 2015. On December 3, 2015, respondent timely filed a petition signed by Ronald W. Falmier. *See* 415 ILCS 5/31.1(d) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b). Pursuant to the Board's December 17, 2015 order, respondents timely filed an amended petition for review on January 20, 2016. Amend. Pet. at 1. In the amended petition, which is signed by both Ronald W.

Falmier and Susan A. Falmier, respondents allege that the alleged violations were the result of uncontrollable circumstances. *Id.*

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) (2014). By contesting the administrative citation, respondents may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2014); 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.

Respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondents withdraw their petition after the hearing starts, the Board will require respondents 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) (2014); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated Sections 21(p)(1), 21(p)(3), 21(p)(5), and 55(k)(1), the Board will impose civil penalties on respondents. The civil penalty for violating any provision of Section 21(p) or 55(k) is \$1,500 for each violation, unless it is the person's second or subsequent adjudicated violation of that provision, for which the penalty amount is \$3,000. *See* 415 ILCS 5/42(b) (4-5) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents have "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) (2014); *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 February 4 2016, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board