

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 2016

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 16-7
	)	(IEPA No. 344-15-AC)
JAMES REICHERT LIMITED FAMILY	)	(Administrative Citation)
PARTNERSHIP,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.M. Keenan):

On December 18, 2015, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against James Reichert Limited Family Partnership (respondent). *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s property located at 1406 Cornell Street, in Marion, Williamson County. The property is commonly known to the Agency as the “Reichert, James LFP-Cornell Street” site and is designated with Site Code No. 1990555290. For the reasons below, the Board accepts respondent’s 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 only by the Agency 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) (2014); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on November 4, 2015 respondent violated three sections of the Act, 415 ILCS 5/21 (p)(1), (p)(3), and (p)(7) (2014), by causing or allowing the open dumping of waste in a manner resulting in: 1) litter, 2) open burning, and 3) deposition of general construction or demolition or debris or clean construction or demolition debris. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on respondent for a total civil penalty of \$4,500.

As required, the Agency served the administrative citation on respondent within “60 days after the date of the observed violation.” 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 January 22, 2016. On January 18, 2016, respondent timely filed a petition. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent alleges it did not “cause or allow” the alleged violation to occur. *See* 35 Ill. Adm. Code 108.206.

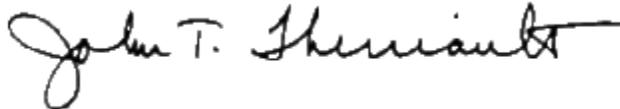
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2014). By contesting the administrative citation, respondent may have to pay the hearing costs of the Board and 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](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Respondent may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If respondent chooses to withdraw its petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondent withdraws its petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and 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 respondent violated 415 ILCS 5/21(p)(1), (p)(3), or (p)(7), the Board will impose civil penalties on respondent. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation. *See* 415 ILCS 5/42(b)(4-5) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondent "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) (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.



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John T. Therriault, Clerk  
Illinois Pollution Control Board