

ILLINOIS POLLUTION CONTROL BOARD  
May 15, 2008

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 08-27
	)	(IEPA No. 51-08-AC)
HIRAM L. VANDERHEIDEN, JR.,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On March 31, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Hiram L. Vanderheiden, Jr. (Vanderheiden). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 510 N. Park Ave. in Manito, Mason County. The facility is commonly known to the Agency as “Manito/Vanderheiden” and is designated with Site Code No. 1258075004. For the reasons below, the Board accepts Vanderheiden’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on February 7, 2008, Vanderheiden violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) at the facility by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. The Agency asks the Board to impose a \$4,500 civil penalty on Vanderheiden.

As required, the Agency served the administrative citation on Vanderheiden within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by May 7, 2008. On April 29, 2008, Vanderheiden timely filed a petition to contest the administrative citation with the Board. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Vanderheiden must serve a copy of the petition upon the Agency and file proof of service with the Board. *See* 35 Ill. Adm. Code 101.304. Vanderheiden’s petition denies that the site is a dump, stating that the site is a residence and the house is used as a “storage place” for property that Vanderheiden purchased at auctions and does not consider

“trash.” Petition at 1. Vanderheiden asserts that the boats, snowmobiles, and other materials on the site are merchandise of value to him that he has paid for, and that the automobile has a valid current license plate. *Id.*; *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) (2006). By contesting the administrative citation, Vanderheiden may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 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.

Vanderheiden may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Vanderheiden 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 Vanderheiden withdraws his petition after the hearing starts, the Board will require Vanderheiden 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) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that Vanderheiden violated Sections 21(p)(1), (p)(3), or (p)(7) of the Act, the Board will impose civil penalties on Vanderheiden. The civil penalty for violating any provision of subsection (p) of Section 21 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) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Vanderheiden 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) (2006); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 15, 2008, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board