

ILLINOIS POLLUTION CONTROL BOARD  
November 3, 2011

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 12-3
	)	(IEPA No. 255-11-AC)
ASHWIN P. PATEL & MITA A. PATEL,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.A. Holbrook):

On September 20, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ashwin P. Patel and Mita A. Patel (Patels). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns an open dump site owned by the Patels and located at 1406 Broeking Road, Marion, Williamson County (Marion site). The property is commonly known to the Agency as the “Marion/Patel, Ashwin P. & Mita A.” site and is designated with Site Code No. 1990555228. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2010)), 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) (2010); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that, on August 17, 2011, the Patels violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2010)) by causing or allowing open dumping of waste in a manner resulting in: 1) litter, 2) open burning, and 3) deposition of general construction or demolition debris, or clean construction or demolition debris. The Agency asks the Board to impose on the Patels the statutory \$1,500.00 civil penalty for each alleged violation, for a total civil penalty of \$4,500.00

As required, the Agency served the administrative citation on the Patels within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by October 31, 2011. On October 31, 2011, the Patels timely filed a petition. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). The Patels allege that they undertook cleanup efforts at the Marion site after being informed by the Agency of potential violations of the Act.

The Patels state that much of the debris was there prior to their purchase of the site, and that further debris was deposited as a result of a windstorm. *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* 415 ILCS 5/31.1(d)(2) (2010); 35 Ill. Adm. Code 108.300. By contesting the administrative citation, the Patels may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2010); 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.

The Patels may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the Patels 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 the Patels withdraw their petition after the hearing starts, the Board will require them 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) (2010); 35 Ill. Adm. Code 108.400. If the Board finds that Patels violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act, the Board will impose civil penalties on them. The civil penalty for violating any provision of Section 21(p), 22.51, 22.51a, or 55(k) 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) (2010); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Patels 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) (2010); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 3, 2011, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board