

ILLINOIS POLLUTION CONTROL BOARD  
February 2, 2012

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 12-23
	)	(IEPA No.405-11-AC)
DALE GORDON SPRADLIN AND	)	(Administrative Citation)
BARBARA J. SPRADLIN,	)	
	)	
Respondents.	)	

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

On December 23, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Dale Gordon Spradlin and Barbara Spradlin (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the respondents' open dumping facility located at 37784 205th Street, R.R.2, 1050 N., Pittsfield, Pike County. The property is commonly known to the Agency as the "Martinsburg Township/Spradlin" site and is designated with Site Code No. 1498130002. For the reasons below, the Board accepts Barbara Spradlin's petition to contest the administrative citation but directs her to file an amended petition to cure the deficiency noted in this order. In addition, the Board grants the motion to dismiss Dale Gordon Spradlin.

Under the Environmental Protection Act (Act) (415 ILCS 5 (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 November 3, 2011, respondents violated Sections 21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7), and 55(k) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter, in open burning, in the deposition of waste in standing or flowing water, in the deposition of construction or demolition debris, and in used tires accumulating water at the Pike County site. The Agency asks the Board to impose on respondents the statutory \$1,500.00 civil penalty for each alleged violation, for a total civil penalty of \$7,500.00.

On January 9, 2012, the Agency filed a motion to voluntarily dismiss the administrative citation against Dale Gordon Spradlin. In the motion, the Agency states that it failed to serve the administrative citation on Dale Gordon Spradlin within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 108.202(b). The Board

therefore grants the Agency's motion and dismisses the case against Dale Gordon Spradlin. *See* 35 Ill. Adm. Code 108.402.

However, the Agency proceeds in the case against Barbara Spradlin. As required, the Agency served the administrative citation on Barbara Spradlin 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 February 13, 2012. On January 18, 2012, a petition was timely filed. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). The petition alleges the appearance of the property on the date of inspection was due to respondents' primary business of moving, delivering, and removing new and used mobile and modular homes and not due to open dumping as the Agency claims; and that, since the November 3, 2011 inspection, respondents have abandoned their secondary business of scrapping and recycling mobile and modular homes at the Pike County location and are in the process of cleaning the site of waste. *See* 35 Ill. Adm. Code 108.206.

The Board accepts the petition but finds that the petition contains deficiencies that must be remedied before the case can be accepted for hearing. The petition fails to state adequate grounds for appeal, which must include allegations that, the recipient of the citation: 1) does not own the property; 2) did not cause or allow the alleged violations; 3) was not properly served; or 4) was unable to prevent the violation due to uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. Evidence of subsequent cleanup or compliance is not sufficient grounds for appeal. *IEPA v. Jack Wright*, AC89-227, slip op. at 7 (Aug. 30, 1990). The petition fails to state any of these grounds for appeal.

The petition is also deficient, because the petition is signed only by Dale Gordon Spradlin, but the petition does not identify him as an attorney. If Dale Gordon Spradlin is not an attorney, he cannot represent Barbara Spradlin. Although an individual may represent himself or herself, a non-attorney cannot represent another person in a Board adjudicatory proceeding, such as an administrative citation action. *See* Ill. Adm. Code 101.400(a).

Under these circumstances, the Board directs Barbara Spradlin to file an amended petition through an attorney by March 5, 2012, which is the first business day following the 30th day after the date of this order. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency).

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 February 2, 2012, by a vote of 5-0.



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John T. Therriault, Assistant Clerk

Illinois Pollution Control Board