

ILLINOIS POLLUTION CONTROL BOARD
June 21, 2012

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-51
)	(IEPA No. 87-12-AC)
NORTHERN ILLINOIS SERVICE)	(Administrative Citation)
COMPANY,)	
)	
Respondent.)	

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

On May 7, 2012, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Northern Illinois Service Company (Northern). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Northern’s facility located at 4781 Sandy Hollow Road, Rockford, Winnebago County. The property is commonly known to the Agency as the “Rockford/Northern Illinois Service” site and is designated with Site Code No. 2010301120. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

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 March 14, 2012, Northern violated Sections 21(p)(1), 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), (p)(7), 55(k)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in both litter and deposition of general construction or demolition debris, and by causing or allowing water to accumulate in used or waste tires at the Winnebago County site. The Agency asks the Board to impose on Northern 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 Northern 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 June 13, 2012. On June 11, 2012, Northern timely filed a petition. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). Northern alleges that it did not: 1) cause or allow opening dumping; 2) dump ‘waste’; 3) engage in activities that resulted in “litter”; 4) nor did

Northern have knowledge as to the truth of the allegation that it caused or allowed water to accumulate in used or waste tires, but assuming such violation did exist, Northern nonetheless denies the violation alleging it was *de minimis*. Northern further alleges the affirmative defense that the alleged violations of Section 21(p)(1) and (p)(7) of the Act (415 ILCS 4/21(p)(1) and (p)(7) (2010)) are duplicative and should therefore be dismissed. *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) (2010). By contesting the administrative citation, Northern 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. *See* 35 Ill. Adm. Code 108.504.

Northern may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Northern 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 Northern withdraws its petition after the hearing starts, the Board will require Northern 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 Northern violated Sections 21(p)(1), 21(p)(7), and 55(k) of the Act (415 ILCS 5/21(p)(1), (7), 55(k) (2010)), the Board will impose civil penalties on Northern. The civil penalty for violating any provision of Section 21(p) 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 Northern "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) (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 June 21, 2012 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board