

ILLINOIS POLLUTION CONTROL BOARD
November 15, 2012

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 13-17
) (IEPA No. 219-12-AC)
AAD FAMILY FARMS, LLC,) (Administrative Citation)
)
Respondent.)

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

On September 28, 2012, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against AAD Family Farms, LLC (respondent). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s facility located 1246 Upper Spring Bay Road, Spring Bay Township, Woodford County. The property is commonly known to the Agency as the “AAD Family Farms, LLC” site and is designated with Site Code No. 2038155011. 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 August 16, 2012, respondent violated Sections 21(p)(1), 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(3) and 21(p)(7) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning and deposition of general construction or demolition debris or clean construction or demolition debris at the Woodford County site. The Agency asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, 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) (2010); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by November 1, 2012. On November 1, 2012, respondent timely filed a petition (Pet.). *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent alleges that the facility “currently is being managed out by residents who are outside of the area and do not live on the premises nor do have access on a daily or frequent basis to observe the property.” Pet. at 1. Respondent further alleges that “unknown individuals may have committed such as the

dumping of waste on the property since there is no person who lives on the property and there is no person who actively manages the property.” *Id.* Respondent alleges that it has either not had direct knowledge or has not directly caused or allowed the dumping of any waste in the manner cited. *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) (2010). By contesting the administrative citation, respondent 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.

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 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 respondent violated Sections 21(p)(1), 21(p)(3) and 21(p)(7) of the Act, the Board will impose civil penalties on respondent. 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 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) (2010); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

Member J. O’Leary Abstained

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 15, 2012 by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board