

ILLINOIS POLLUTION CONTROL BOARD
April 7, 2016

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 14-50
) (IEPA No. 129-14-AC)
CRAIG S. WALKER AND WALKER &)
SONS ENTERPRISES, LTD.,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by D. Glosser):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on May 16, 2014 against Craig S. Walker and Walker and Sons Enterprises, LTD (respondents). The Agency alleged that on April 17, 2014, respondents violated Sections 21(p)(1), (p)(7) and 55(k)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1),(p)(7), and 55(k)(1) (2014)) by causing or allowing open dumping resulting in litter and deposition of demolition or construction debris, and accumulation of water in used tires. The violations allegedly took place at respondents' facility located at 421 E. Moneta Street in Peoria Heights, Peoria County. The property is commonly known to the Agency as "Hutch's Tire & Lube" site and is designated with Site Code No. 1430703003.

Respondents timely filed a petition to contest the administrative citation, which the Board accepted on July 16, 2014. On March 3, 2016, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review." Under its terms, respondents admit the violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)) by causing or allowing littering, and respondents agree to pay the statutory civil penalty of \$1,500 for this violation. Stipulation at 3. Respondents also agree to the dismissal of the petition contesting the administrative citation. *Id.* Respondents also agree to cease and desist from further violation and to diligently comply with the Act, and the Board's rules and regulations. *Id.* It is further stipulated that the violations observed during the April 17, 2014 inspection are not continuing at this time. In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.*

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2014)), the Board therefore finds that respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2014)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500. To effectuate the parties' intent that respondents

pay a total civil penalty of \$1,500, the Board dismisses the alleged violations of Sections 21(p)(7) and 55(k)(1) of the Act (415 ILCS 5/21(p)(7) and 5/55(k)(1) (2014)).

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that Craig S. Walker and Walker and Sons Enterprises, LTD (respondents) violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2014)).
3. Respondents must pay a civil penalty of \$1,500 no later than May 2, 2016 which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty to the Illinois Environmental Protection Trust Fund.
4. Respondents must send payment to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
6. The Board dismisses the alleged violations of Sections 21(p)(7) and 55(k)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(7) and 5/55(k)(1) (2014)) and respondents' petition to contest the administrative citation.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2014); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 7, 2016, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

**ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant.**

vs.

**CRAIG S. WALKER and WALKER &
SONS ENTERPRISES, LTD.,
Respondents.**

AC

IEPA No. 129-14-AC

RECEIVED
CLERK'S OFFICE

AUG 26 2014

STATE OF ILLINOIS
Pollution Control Board

AMENDED PETITION FOR REVIEW

NOW COMES Craig S. Walker and Walker & Sons Enterprises, Ltd. ("Enterprises"), by and through their attorney, Steven A. Sutton, and request a review of the above captioned case and a hearing, if necessary, for the following reasons:

1. Craig S. Walker is the owner and Walker & Sons Enterprises, LTD is the operator ("Respondents") of a facility (the "Property") located at 423 Moneta Street (the office), 421 E. Moneta Street (a lot without buildings next to the office), 417 E. Moneta Street (has a large pole barn 50'x63'), and 420 Marietta Street, Peoria Heights, IL. These properties are all contiguous But given different street addresses by the city of Peoria Heights. Inspector Jeb/Gerald McGhee (the "Inspector") had a nice diagram of the property, even if not to scale. The property is surrounded by a slatted chain link fence or a building's walls so that it is not accessible to the public.
2. Respondents have owned and operate said facility at all times pertinent hereto.
3. On April 17, 2014, the Inspector inspected the Property and then submitted an inspection report citing three alleged violations of the Illinois Environmental Act (the "Act"), a copy of which was sent to the Respondents.
4. The first violation states that Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, which states the Respondents "in violation of subdivision (a) of this Section, cause or allow the open dumping of any

waste in a manner which results in any of the following occurrences at the dump site: (1) litter....”

5. The Respondent Walker & Sons Enterprises, Ltd. is a car dealership and an automobile rebuilding business. Respondent has current licenses for selling vehicles, repairing and rebuilding vehicles.
6. Due to the nature of the business, when Respondent is working on rebuilding or repairing a vehicle, the car parts will have to be off the vehicle and on the ground to allow access to the parts to install them on the vehicle.
7. The vehicles the Respondent buys, fixes, and resells will always have damaged parts which must be replaced and in the process of doing so, these parts are placed in the vehicle (if it is going to be scrapped) or put in the large pole barn if they might be reusable on another vehicle or are placed in a pile (if unusable) before being put in the company dump truck and taken to the county dump. Tires that are not usable are treated differently and are hauled away by a third party, a licensed tire processor (at the cost of \$2 per tire).
8. This is not litter but simply what happens as one is fixing a vehicle. One cannot repair or dismantle a vehicle without having unwanted parts. All parts intended for the county dump were placed in a storage bin with two metal sides and a truckbox as a third side.
9. Please see the Investigator's Photo #9. From the picture, it can look as if this is a dumping ground. However, all the materials in the picture are from just one trailer that was torn up for parts. The usable parts went into the pole barn storage and the unusable parts were placed on the ground, then loaded on the company dump truck and taken to the county dump. If every car part that hits the ground is litter, no car business will or can ever be in compliance.
10. The second violation states that Respondent “caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris”.
11. Mr. Walker also had a roofing company which ceased roof replacement operations at the end of 2013. He had in storage for use in that business certain brand new and unused shingles. These were added to the pile of parts to be taken to the county dump for disposal. These were not general construction or demolition debris: or clean construction or demolition debris. They did not come from another site


but were purchased and stored by the Respondent for future roofing jobs. Since this business is not active (no employees or jobs), the tires were disposed of to make more storage room. These items do not fit the definition in the Act. They were not brought from another site. They were not dumped on the Property as their final resting place. They were taken to the county dump and disposed of there.


12. The third violation states that Respondent "caused or allowed water to accumulate in used/waste tires...."
13. The Inspector's narrative report states that he observed approximately 280 tires stored inside buildings or covered structures where water could not reach them. He observed approximately 120 tires stored outside. Some were uncovered but we are not told how many. It was stated that although there was water in some tires, no mosquito larvae were present. Any tires that might have possible exposure to water have been relocated to avoid that happening. The number of tires present at that time was unusually high, since the Respondent had just undergone a reevaluation of his inventory and scrapped a large number of cars that were not deemed fixable, leaving four tires per car to dispose of afterwards. The third party company that the Respondent hires to remove these tires because he did not have adequate inside storage space had not yet gotten to the exposed tires to remove them

Therefore the Respondents request that this board dismiss all counts filed

By: 
Steven A. Sutton, Attorney

Review requested by the following Respondents:


Craig S. Walker


Craig S. Walker,
owner of Enterprises

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