

ILLINOIS POLLUTION CONTROL BOARD
April 19, 2007

COUNTY OF LASALLE,)
)
 Complainant,)
)
 v.) AC 07-45
) (Administrative Citation)
 WAYNE and BECKY FOSTER,)
)
 Respondents.)

ORDER OF THE BOARD (by N.J. Melas):

On February 26, 2007, the County of LaSalle (County) timely filed an administrative citation against Wayne and Becky Foster (the Fosters). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a facility located in Farm Ridge Township, LaSalle County. The facility is designated with Site Code No. 0998110001. For the reasons below, the Board accepts the Fosters' petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 Illinois Environmental Protection Agency (Agency) or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.3(c) 42(b)(4), (4-5) (2004); 35 Ill. Adm. Code 108.

In this case, the County alleges that the Fosters violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2004)) by causing or allowing the open dumping of waste resulting in litter. The County asks the Board to impose on the Fosters the statutory civil penalty of \$1,500 for the alleged violation.

As required, the County served the administrative citation on the Fosters within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On March 16, 2007, the Fosters timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). The Fosters allege that they do not now operate and never have operated a landfill and do not accumulate litter, garbage, debris, or junk. *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. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, the Fosters may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. A schedule of the

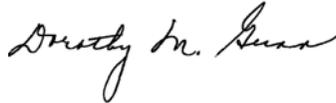
Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at www.ipcb.state.il.us. 35 Ill. Adm. Code 504.

The Fosters may withdraw the petition to contest the administrative citation at any time before the Board enters its final decision. If the Fosters choose to withdraw the petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the Fosters withdraw the petition after the hearing starts, the Board will require the Fosters to pay the hearing costs of the Board and the County. *See id.* at 108.500(c).

The County has the burden of proof at hearing. 415 ILCS 5/31.1(d)(2) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that the Fosters violated Section 21(p)(1), the Board will impose civil penalties on the Fosters. The civil penalty for violating any provision of subsection (p) of Section 21 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. 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that the Fosters 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) (2004); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 19, 2007, by a vote of 3-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board