

ILLINOIS POLLUTION CONTROL BOARD
July 15, 2010

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 10-21
)	(IEPA No.124-10AC)
DAVID CHARLES BETTIS,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On April 7, 2010, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against David Charles Bettis. *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Bettis' facility located on Route 108, one mile east of Carrollton in Greene County. The property is commonly known to the Agency as the "Carrollton Livestock Auction" and is designated with Site Code No. 0618025001. For the reasons below, the Board accepts Mr. Bettis' petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 55(k), 31.1(c), 42(b)(4), (4-5) (2008); 35 Ill. Adm. Code 108. In this case, the Agency alleges that on February 19, 2010, Mr. Bettis violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter and open burning at Mr. Bettis' Greene County site. The Agency asks the Board to impose the statutory civil penalty of \$1,500 per violation for a total civil penalty of \$3,000.

As the Board found in its June 3, 2010 order, the Agency timely served the administrative citation on Mr. Bettis and on May 20, 2010, Mr. Bettis timely filed a petition to contest the citation. Mr. Bettis alleges that he has not allowed anyone to dump on his site and that dumping occurs during the five or six days each week when he is absent from the site. Mr. Bettis further alleges that he has done what he can to stop the violations. According to the petition, he has posted "no dumping" and "no trespassing" signs, and has announced at his weekly auction that no dumping is permitted. Mr. Bettis claims that he cannot afford security equipment to identify the culprits. The Board found that the petition satisfied the content requirements of the procedural rules. *See* 35 Ill. Adm. Code 108.206. However, the Board declined to accept the petition for hearing. Rather, the Board's June 3, 2010 order directed that Mr. Bettis file proof

that he served the Agency with a copy of his petition as required. Mr. Bettis has since filed proof that the Agency was served on May 20, 2010.

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) (2008). By contesting the administrative citation, Mr. Bettis may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2008); 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.

Mr. Bettis may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Mr. Bettis chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Mr. Bettis withdraws his petition after the hearing starts, the Board will require Mr. Bettis 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) (2008); 35 Ill. Adm. Code 108.400. If the Board finds that Mr. Bettis violated Section 21(p)(1) or (p)(3) of the Act, the Board will impose a civil penalty on Mr. Bettis. 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. *See* 415 ILCS 5/42(b)(4-5) (2008); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Mr. Bettis "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) (2008); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 15, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board