

ILLINOIS POLLUTION CONTROL BOARD
April 21, 2011

ILLINOIS ENVIRONMENTAL)
PROTECTION,)
)
Complainant,)
)
v.) AC 11-22
) (IEPA No. 50-11-AC)
KYLE E. PRITCHETT,) (Administrative Citation)
)
Respondent.)

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

On March 16, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Kyle E. Pritchett (Pritchett). *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Pritchett's property located at 411 1/2 West Street, Mt. Carmel, Wabash County. The property is commonly known to the Agency as the "Mt. Carmel/Pritchett, Kyle E" site and is designated with Site Code No. 1850205035. For the reasons below, the Board accepts Pritchett's 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. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2008); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on January 27, 2011, Pritchett violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2008)) by open dumping in a manner resulting in litter at the site. The Agency asks the Board to impose on Pritchett the statutory \$1,500 civil penalty.

As required, the Agency served the administrative citation on Pritchett within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2008); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by April 18, 2011. On April 15, 2011, Pritchett timely filed a petition. *See* 415 ILCS 5/31.1(d) (2008); 35 Ill. Adm. Code 101.300(b), 108.204(b). Pritchett alleges uncontrollable circumstances *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) (2008). By contesting the administrative citation, Pritchett 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.

Pritchett may withdraw the petition to contest the administrative citation at any time before the Board enters its final decision. If Pritchett chooses to withdraw the petition, Pritchett must do so in writing, unless the petition is withdrawn orally at hearing. See 35 Ill. Adm. Code 108.208. If Pritchett withdraws the petition after the hearing starts, the Board will require Pritchett 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 Pritchett violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2008)), the Board will impose civil penalties on Pritchett. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation. See 415 ILCS 5/42(b)(4-5) (2008); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Pritchett "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 April 21, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board