

ILLINOIS POLLUTION CONTROL BOARD
February 2, 2012

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-22
)	(IEPA No. 379-11-AC)
TERRY L. YOUNG,)	(Administrative Citation)
)	
Respondent.))	

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

On December 23, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Terry L. Young. *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent's open dumping facility located at 961 Hanging Rock Road, Flora, Clay County. The property is commonly known to the Agency as the "Flora/Young, Terry L." site and is designated with Site Code No. 0258035003. For the reasons below, the Board accepts respondent's 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 November 14, 2011, Terry Young violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2010)) by causing or allowing the open dumping of waste resulting in litter and in the deposition of general construction or demolition debris or clean construction or demolition debris at the Clay County site. The Agency asks the Board to impose on Terry Young the statutory \$1,500.00 civil penalty for each alleged violation, for a total civil penalty of \$3,000.

As required, the Agency served the administrative citation on Terry Young 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 January 25, 2012. On January 26, 2012, the respondent timely filed a petition. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). The respondent contests the administrative citations on the grounds that the violations were due to uncontrollable circumstances and that he does not own the Clay County property. *See* 35 Ill. Adm. Code 108.206. The respondent alleges

that he is disabled, which hindered his ability to clean the debris on the property; that he lacked funds to purchase dumpsters necessary for the clean-up; and that he does not own the Clay County property, but that his minor daughter does.

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, the 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.

The respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If the respondent 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 the respondent withdraws his petition after the hearing starts, the Board will require him 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 the respondent violated Sections 21(p)(1) and (p)(7), the Board will impose civil penalties on the respondent. 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) (2010); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Terry Young "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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 2, 2012, by a vote of 5-0



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board