

ILLINOIS POLLUTION CONTROL BOARD  
June 7, 2012

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 12-48
	)	(IEPA No. 89-12-AC)
RUTH WHITE,	)	(Administrative Citation)
	)	
Respondent.	)	
	)	

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

On April 17, 2012, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Ruth White. *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Ruth White’s property located on Charles Street, south of Illinois Route 75, Freeport, Stephenson County. The property is commonly known to the Agency as the “Freeport/White Property” and is designated with Site Code No. 1770205230. For the reasons below, the Board accepts respondents’ 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 February 22, 2012, Ruth White violated the following Sections of the Act: 1) Section 21(p)(1) (415 ILCS 5/21(p)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in littering; 2) Section 21(p)(3) (415 ILCS 5/21(p)(3) (2010)) by causing or allowing the open dumping of waste in a manner resulting in open burning; and 3) Section 55(k)(1) (415 ILCS 5/55(k)(1) (2010)) by causing or allowing water to accumulate in used or waste tires. The Agency asks the Board to impose the statutory \$1,500 civil penalty per violation on Ms. White, for a total civil penalty of \$4,500.

As required, the Agency served the administrative citation on Ruth White 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 May 22, 2012. On May 18, 2012, Ruth White timely filed a petition. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). Ms. White stated that she did not cause or allow open dumping, open burning, or collection of water in tires on the property. She also

alleged that a third party caused the situation. Her petition also alleged that the violations occurred without her knowledge or consent and that she needs more time until she is able to clean the property. *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) (2010). By contesting the administrative citation, Ruth White 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](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Ruth White may withdraw her petition to contest the administrative citation at any time before the Board enters its final decision. If Ruth White chooses to withdraw her petition, she must do so in writing, unless she does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Ruth White withdraws her petition after the hearing starts, the Board will require Ms. White 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 Ruth White violated sections 21(p)(1), 21(p)(3), or 55(k)(1) of the Act, the Board will impose civil penalties on Ms. White. The civil penalty for violating Sections 21(p)(1), 21(p)(3), and 55(k)(1) 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) (2010); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Ruth White "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 June 7, 2012 by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board