

ILLINOIS POLLUTION CONTROL BOARD
May 3, 2017

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 17-11
) (Administrative Citation)
BRUCE REESE and BRYAN BRUCE,)
)
Respondent.)

ORDER OF THE BOARD (by C.K. Zalewski):

On February 16, 2017, Jackson County timely filed an administrative citation (AC) against Bruce Reese and Bryan Bruce (respondents). *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The AC concerns respondents' facility located on Dillinger Road in Carbondale, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the "Carbondale/Bruce Reese" site and is designated with Site Code # 077 801 5043. For the reasons below, the Board accepts respondents' amended petitions to contest the AC.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), an AC 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) (2014); 35 Ill. Adm. Code 108.

In this case, Jackson County alleges that on January 11, 2017, respondents violated Sections 21(p)(1) and 21(p)(7) of the Act by causing or allowing open dumping that resulted in both litter and the deposition of general or clean construction or demolition debris at the Jackson County site. 415 ILCS 5/21(p)(1), (p)(7) (2014). Jackson County asks the Board to impose on respondents the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$3,000.

On March 13, 2017, Bruce Reese filed a letter on behalf of himself and Bryan Bruce, which the Board construed as a petition to contest the AC. 415 ILCS 5/31.1(d) (2014); 35 Ill. Adm. Code 101.300(b). Although the Board accepted the petition as timely filed, the Board found the petition deficient and directed respondents to file an amended petition or petitions, curing the deficiencies, by April 24, 2017. Each respondent filed a letter on April 7, 2017. The Board construes the letters as amended petitions. Both letters claim that the site is not a public dump.

The Board accepts the petitions 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) (2014). Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 108.300(d).

By contesting the AC, respondents may have to pay the hearing costs of the Board and Jackson County in addition to the statutory civil penalty. 415 ILCS 5/42(b)(4-5) (2014); 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 website at www.ipcb.state.il.us. 35 Ill. Adm. Code 108.504. Respondents may withdraw their petitions to contest the administrative citation at any time before the Board enters its final decision. If respondents choose to withdraw their petitions, they must do so in writing, unless they do so orally at hearing. 35 Ill. Adm. Code 108.208. If respondents withdraw their petitions after the hearing starts, the Board will require respondents to pay the hearing costs of the Board and Jackson County. 35 Ill. Adm. Code 108.500(c).

Jackson County has the burden of proof at hearing. 415 ILCS 5/31.1(d)(2) (2014); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated Sections 21(p)(1) and 21(p)(7), the Board will impose civil penalties on respondents. The civil penalty for violating any provision of Section 21(p) 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) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents "ha[ve] 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) (2014); 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 3, 2017, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board