

ILLINOIS POLLUTION CONTROL BOARD
December 5, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-20
)	(IEPA No. 231-13-AC)
FRANK ROOT,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by D. Glosser):

On October 15, 2013, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Frank Root (respondent). The administrative citation concerns respondent's property located at 13354 Route 16 in Gillespie, Macoupin County. The property is commonly known to the Agency as the "Gillespie/Root, Frank" site and is designated with Site Code No. 1178095008. On November 7, 2013, the Board accepted a petition for review as timely filed, but directed the respondent to file an amended petition. For the reasons below, the Board accepts respondent's petition to contest the administrative citation, but directs respondent to serve the petition upon the Agency or face dismissal of the petition.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on August 21, 2013, respondent violated Section 55(k)(1) of the Act (415 ILCS 5/55(k)(1) (2012)) by causing or allowing water to accumulate in used/waste tires. The Agency asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$1,500.

As required, the Agency served the administrative citation on respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by November 25, 2013. On October 25, 2013, respondent timely filed a petition (Pet.) for review. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). The Board accepted the petition but directed respondent to correct deficiencies in the petition. On November 27, 2013, respondent filed an amended petition stating the alleged violations were a result of uncontrollable circumstances. However, the respondent did not serve the Agency. The Board accepts the amended petition but directs respondent to serve the Agency with a copy of the

amended petition on the Agency and file proof of that service with the Board. *See* 35 Ill. Adm. Code 101.304. If no proof of service is filed with the Board by January 6, 2014, which is the first business day following the 30th day after the date of this order, respondent's petition will be dismissed and a default order will be entered against them, imposing the statutory \$1,500 civil penalty. If proof of service is filed pursuant to this order and respondents do not prevail on the merits of the case, respondents will have to pay not only the civil penalty but also any hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2012); 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.icpb.state.il.us *See* 35 Ill. Adm. Code 108.504.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 5, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board