

ILLINOIS POLLUTION CONTROL BOARD  
August 25, 2016

COUNTY OF OGLE, )  
)  
Complainant, )  
)  
v. ) AC 16-14  
) (IEPA-LPC Site: #1418215008)  
WAYNE L. FISHER & ) (Administrative Citation)  
CHRISTINA C. FISHER, )  
)  
Respondents. )

ORDER OF THE BOARD (by J. A. Burke):

Ogle County alleges that Wayne L. and Christina C. Fisher committed open dumping violations at 102 Oak Street in Holcomb, Ogle County. The County refers to the property as the Fisher, Wayne L. & Christina C. site, IEPA-LPC Site #1418215008. For the reasons below, the Board accepts the Fishers' petition to contest the administrative citation.

In this case, the County alleges that on March 11, 2016, the Fishers violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2014)) by causing or allowing open dumping of waste at the site resulting in litter and the deposition of general construction or demolition debris or clean construction or demolition debris. The County asks the Board to impose on the Fishers a statutory \$3,000 civil penalty for each alleged violation, for a total civil penalty of \$6,000, because the Fishers have previously been found in violation of these provisions. *See Ogle County Solid Waste Management Department v. Wayne Fisher and Christina Fisher*, AC 6-31 (July 6, 2006).

The County served the administrative citation on the Fishers within 60 days after the date of the observed violation. *See* 415 ILCS 5/31.1(b) (2014); 35 Ill. Adm. Code 101.300(c), 108.202(b). On June 3, 2016, within 35 days of service, the Board received a photocopied document signed by Wayne Fisher stating that Wayne and Christina Fisher seek to appeal the administrative citation along with their reasons for doing so. *See* 415 ILCS 5/31.1(d) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b). The document appeared to have information cut off, and the Board on July 7, 2016, ordered the Fishers to file an amended petition.

On August 8, 2016, the Board received a new document signed by Wayne and Christina Fisher denying that they caused or allowed the violations. The document includes a statement, initialed "CF," that a copy was sent to Ogle County.

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) (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 administrative citation, the Fishers may have to pay the hearing costs of the Board and the County. *See* 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 Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504. The Fishers may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the Fishers choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the Fishers withdraw their petition after the hearing starts, the Board will require them to pay the hearing costs of the Board and the County. *See id.* at 108.500(c).

The County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2014); 35 Ill. Adm. Code 108.400. If the Board finds that the Fishers violated Sections 21(p)(1) and 21(p)(7) of the Act, the Board will impose civil penalties on the Fishers. The civil penalty for violating either provision of Section 21(p) is \$3,000 for each violation, because the Fishers were previously found in violation of these provisions. *See* 415 ILCS 5/42(b)(4-5) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that the Fishers have "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); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 25, 2016, by a vote of 4-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board