

ILLINOIS POLLUTION CONTROL BOARD
February 20, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-27
)	(IEPA No. 338-13-AC)
STEVEN and ANTHONY SOHN,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by D. Glosser):

On November 26, 2014, the Illinois Environmental Protection Agency (Complainant) timely filed an administrative citation against Steven and Anthony Sohn (respondents). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' facility located on the south side of 372nd Avenue, approximately ¼ mile west of the intersection of Perry Fishhook Road and 372nd Avenue southeast of Fishhook in Fairmount Township, Pike County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the "Fairmount Township/Sohn" site and is designated with Site Code No. 1498060004. For the reasons below, the Board accepts respondents' petition to contest the administrative citation.

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) (2010); 35 Ill. Adm. Code 108.

In this case, complainant alleges that on October 10, 2013, respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)) by causing or allowing open dumping at the Pike County site. Complainant asks the Board to impose on respondents the statutory \$1,500 civil penalty.

As required, complainant served the administrative citation on respondents 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 December 31, 2013. On December 24, 2013, respondents timely filed a petition. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). However, the Board found the petition deficient, and ordered respondents to file an amended petition within 30 days. Respondents timely filed an amended petition, which was received by the Board on February 7, 2014. Respondents allege the administrative citation was improperly issued citing two grounds,

the respondents did not cause or allow the alleged violation, and the alleged violation was the result of uncontrollable circumstances. *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) (2012). By contesting the administrative citation, respondents may have to pay the hearing costs of the Board and complainant. *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 Web site at www.ipcb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

Respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If respondents 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 respondents withdraw their petition after the hearing starts, the Board will require respondents to pay the hearing costs of the Board and complainant's. *See id.* at 108.500(c).

Complainant has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2012); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012)), the Board will impose civil penalties on respondents. The civil penalty for violating any provision of Section 21(p)(1) is \$1,500. *See* 415 ILCS 5/42(b)(4-5) (2012); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents "has shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order that makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2012); *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 February 20, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board