

ILLINOIS POLLUTION CONTROL BOARD
July 24, 2014

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-50
)	(IEPA No. 129-14-AC)
CRAIG S. WALKER, AND WALKER &)	(Administrative Citation)
SONS ENTERPRISES, LTD,)	
)	
Respondents.)	

ORDER OF THE BOARD (by D. Glosser):

On May 16, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Craig S. Walker and Walker & Sons Enterprises, LTD (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 at 421 East Moneta Street in Peoria Heights, Peoria County. The property is commonly known to the Agency as "Hutch's Tire & Lube" and is designated with Site Code No. 1430703003. 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) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on April 17, 2014, respondents violated Section 21(p)(1), 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 21(p)(7), and 55(k)(1) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter, deposition of general construction or demolition debris or clean construction or demolition debris, and causing or allowing water to accumulate in used/waste tires. The Agency asks the Board to impose on respondents the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$4,500.

As required, the Agency 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 July 15, 2014. On July 16, 2014, respondents timely filed a petition (Pet.).

A petition must set forth recognized grounds for why a respondent believes that the administrative citation was improperly issued. *See* Ill. Adm. Code 108.206. Those grounds are provided in Section 108.206 of the Board's rules, and include:

- a) the respondent does not own the property,
- b) the respondent did not cause or allow the alleged violation,
- c) the citation was not timely filed or properly served, or
- d) the alleged violation was the result of uncontrollable circumstances. 35 Ill. Adm. Code 108.206. *See also* IEPA v. Bobby G. Myers and Donald D. Myers, AC 07-30, slip op. at 11 (May 21, 2009).

Although the Board accepts respondent's petition as timely filed, the Board must find that the petition is deficient. In the petition, respondent requests "a review of the above captioned case". Pet. at 1. Deficiencies of the respondents' complaint must be remedied before the case can be accepted for hearing. A petition must identify recognized grounds for why a respondent believes that the administrative citation was improperly issued. *See* 5 Ill. Adm. Code 108.206.

The Board therefore directs that respondents file within 30 days of this order an amended petition with the Board that states one or more recognized grounds on which they contest the administrative citation. *See, e.g.,* County of Jackson v. Dan Kimmel, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). In addition to filing an amended petition with the Board, respondent must serve 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 amended petition is filed with the Board by August 25, 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 \$3,000 civil penalty. *See* Ray Logsdon Estate, AC 05-54 (Apr. 21, 2005). If an amended petition is filed pursuant to this order and respondent does not prevail on the merits of the case, respondent 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 July 24, 2014, by a vote of 4-0.



John T. Therriault, Clerk

Illinois Pollution Control Board