

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2014

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 14-51
	)	(IEPA No. 127-14-AC)
CHARLES H. SCHAFFER, JR.	)	
D/B/A CHUCKS AUTO SALES,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by D. Glosser):

On May 16, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles H. Schafer, Jr. d/b/a Chucks Auto Sales (respondent). See 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s facility located at 3920 North Boulevard Avenue in Peoria Heights, Peoria County. The property is commonly known to the Agency as “Chucks Auto Sales” and is designated with Site Code No. 1434755034. For the reasons below, the Board accepts respondent’s 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 March 29, 2014, respondent violated Sections 21(p)(1), 21(p)(3), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1),(p)(3), and 55(k)(1) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter and open burning, as well as causing or allowing water to accumulate in used or waste tires at the Peoria County site. 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 \$4,500.

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 June 19, 2014. On June 16, 2014, respondent timely filed a petition (Pet.). See 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent alleges the violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2012) resulted from uncontrollable circumstances when a wheelbarrow full of cardboard was left on his property by his employees a few hours

before the inspection and was immediately removed after the inspection. Pet. at 1. Respondent also alleges that the violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2012) consisted almost entirely of landscape waste which contained two pieces of radio speakers from an unknown source. *Id.* at 2. Lastly, respondent alleges that the violation of Section 55(k)(1) of the Act, 415 ILCS 5/55(k)(1) (2012) resulted from uncontrollable circumstances when covers blew off some tires allowing water to accumulate due to a recent rainfall before respondent could mitigate the situation. *Id.* See 35 Ill. Adm. Code 108.206.

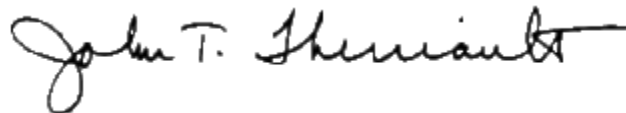
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. See 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2012). By contesting the administrative citation, respondent may have to pay the 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 Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). See 35 Ill. Adm. Code 108.504.

Respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If respondent chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. See 35 Ill. Adm. Code 108.208. If respondent withdraws his petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and the Agency. See *id.* at 108.500(c).

The Agency 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 respondent violated Sections 21(p)(1), 21(p)(3), and 55(k)(1) of the Act, the Board will impose civil penalties on the respondent. The civil penalty for violating any provision of Section 21(p), 22.51, 22.51a, or 55(k) 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. See 415 ILCS 5/42(b)(4-5) (2012); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondent "has 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) (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 July 10, 2014, by a vote of 4-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board