

ILLINOIS POLLUTION CONTROL BOARD
July 6, 2023

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 23-12
) (IEPA No. 56-23-AC)
ROBERT C. CROWDER TRUST, MARY E.) (Administrative Citation)
MCCLELLAND TRUST, and MAX)
MCCLELLAND,)
)
Respondents.)

ORDER OF THE BOARD (by M. Gibson):

On May 1, 2023, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert C. Crowder Trust, Mary E. McClelland Trust, and Max McClelland (respondents). *See* 415 ILCS 5/31.1(c) (2020); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the respondents’ open dump located at 15700 Vermont Road in Rushville, Schuyler County. The property is commonly known to the Agency as the “Rushville/Crowder, Robert” site and is designated with Site Code No. 1690205060. For the reasons below, the Board accepts the respondents’ petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), 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) (2020); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on March 27, 2023, the respondents violated Sections 21(p)(1), (3), and (7) of the Act (415 ILCS 5/21(p)(1), (3), (7) (2020)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general construction or demolition debris or clean construction or demolition debris at the Schuyler County site. The Agency asks the Board to impose on the 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 the respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2020); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). IEPA served Max McClelland on April 25, 2023; the Robert C. Crowder Trust on April 26, 2023; and the Mary E. McClelland Trust on April 27, 2023. Any petition to contest the administrative citation was due by May 30, May 31, and June 1, 2023,

respectively. On May 30, 2023, the respondents timely filed a petition. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2020); 35 Ill. Adm. Code 101.300(b), 108.204(b). The respondents allege the 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) (2020). 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 respondents may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2020); 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.pcb.illinois.gov. *See* 35 Ill. Adm. Code 108.504. The respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the 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 the respondents withdraw their petition after the hearing starts, the Board will require the respondents 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) (2020); 35 Ill. Adm. Code 108.400. If the Board finds that the respondents violated Sections 21(p)(1), (3), and (7) of the Act, the Board will impose civil penalties on the respondents. The civil penalty for violating any provision of Section 21(p) 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) (2020); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that the respondents 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) (2020); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 6, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board