

ILLINOIS POLLUTION CONTROL BOARD  
January 4, 2024

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 24-1\_\_  
 ) (IEPA No. 129-23-AC)  
LESLIE MANDRELL and THOMAS FANN ) (Administrative Citation)  
d/b/a FANN TREE SERVICE, )  
 )  
Respondents. )

ORDER OF THE BOARD (by M.D. Mankowski):

On August 17, 2023, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation (AC). *See* 415 ILCS 5/31.1(c) (2022); 35 Ill. Adm. Code 101.300(b), 108.200(b)(3). The administrative citation concerned property owned by Leslie Mandrell and operated by Thomas Fann d/b/a Fann Tree Service (collectively “respondents”) at 11333 Cedar Grove Road in Marion, Williamson County. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), 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 IEPA or, if the IEPA 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) (2022); 35 Ill. Adm. Code 108.

In this case, the IEPA alleges that on June 21, 2023, respondents violated Sections 21(p)(1) and 21(p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2022)) by causing or allowing the open dumping of waste in a manner resulting in litter and open burning. IEPA requested that the Board impose on respondents the statutory \$1,500 civil penalty per violation for a total civil penalty of \$3,000.

IEPA served respondents with the administrative citation on August 21, 2023, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2022); *see* 35 Ill. Adm. Code 101.300(a), 101.300(c), 108.200(b)(1). Any petition to contest the administrative citation was due by September 25, 2023. Because the Board did not receive a petition by that date from either of the two respondents, it found on October 5, 2023, that the respondents had violated the Act as alleged in the citation and assessed the statutory penalty. On October 18, 2023, the Board received email correspondence from Leslie Fann, which it placed in the record of this proceeding (Pet.). Within Ms. Fann’s email she asked that the Board reconsider its decision, and attached were U.S. Postal Service (USPS) receipts for payment of certified mail

postage in Marion, Illinois on September 19, 2023.<sup>1</sup> Pet. at 4, 5. One receipt showed payment of postage to “Chicago, IL 60601,” which is consistent with the incorrect address IEPA listed in its citations. Pet. at 4. That receipt also showed payment of certified mail postage to “Springfield, IL 62794,” which is consistent with IEPA’s direction to provide it with a copy of any petition for review. *Id.*; see Pet. at 6. In a November 16, 2023, order, the Board reconsidered the October 5, 2023, default order, and found that respondents had timely filed their petition for review. See Board Order, November 16, 2023. Additionally, the Board directed respondents to file an amended petition addressing specific deficiencies by December 18, 2023. On December 27, 2023, the Board received an amended petition (Amnd. Pet.) for review in the USPS mail that was post marked on December 16, 2023.<sup>2</sup> Respondents allege that the logs came from their property and are used to heat their home. See 35 Ill. Adm. Code 108.206. Additionally, they allege that the only burning that takes place is the scrap from cutting the logs down to a size that can fit in their wood burning stove. *Id.*

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) (2022). 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, respondents may have to pay the hearing costs of the Board and IEPA. See 415 ILCS 5/42(b)(5) (2022); 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 <https://pcb.illinois.gov/>. 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 IEPA. See *id.* at 108.500(c).

IEPA has the burden of proof at hearing. See 415 ILCS 5/31.1(d)(2) (2022); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated 21(p)(1) and 21(p)(3), the Board will impose civil penalties on respondents. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation. See 415 ILCS 5/42(b)(5) (2022); 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 which makes no finding

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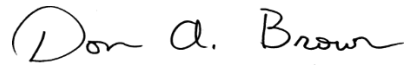
<sup>1</sup> Under the Board’s procedural rules, a document received by the Board’s Clerk through U.S. Mail is considered filed on the date it was provided to the U.S. Postal Service. See 35 Ill. Adm. Code 101.300(b).

<sup>2</sup> Under the Board’s procedural rules, a document received by the Board’s Clerk through U.S. Mail is considered filed on the date it was provided to the U.S. Postal Service. See 35 Ill. Adm. Code 101.300(b).

of violation and which imposes no penalty.” 415 ILCS 5/31.1(d)(2) (2022); *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 January 4, 2024, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk  
Illinois Pollution Control Board