

ILLINOIS POLLUTION CONTROL BOARD
May 4, 2006

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 06-32
) (Jackson County Site Code 0778005012)
DAVID SKIDMORE,) (Administrative Citation)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On March 31, 2006, the County of Jackson (County) timely filed an administrative citation against David Skidmore (Skidmore). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). On April 25, 2006, Skidmore filed a petition to review the administrative citation. For the reasons below, the Board accepts Skidmore’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 Illinois Environmental Protection Agency (Agency) or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 4(r), 21(o), (p), 31.1, 42(b)(4), (4-5) (2004); 35 Ill. Adm. Code 108.

The County alleges that Skidmore violated Sections 21(p)(1), (3) and (7) of the Act. *See* 415 ILCS 5/21(p)(1), (3) and (7) (2004). According to the County’s administrative citation, Skidmore violated these provisions of the Act by causing or allowing the open dumping of waste resulting in litter, open burning, and the deposition of construction or demolition debris at a facility located in Jackson County at 37.89960 degrees latitude and -89.51298 degrees longitude (site). The County asks the Board to impose a \$4,500 civil penalty on Skidmore for the alleged violations.

As required, the County served the administrative citation on Skidmore within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On April 25, 2006, Skidmore timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). Skidmore argues that he does not own the material in question; that he did not set the fires at the site; and that the site has been sold and is now clean. Petition at 2-6. The Board accepts the petition for hearing.

The Board 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

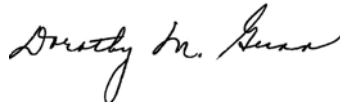
108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, the respondent may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at www.ipcb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

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

The County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that the County proved that the respondent violated Section 21(p)(7), the Board will impose civil penalties on the respondent. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p) that is a respondent's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that a 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) (2004); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board