

ILLINOIS POLLUTION CONTROL BOARD  
May 7, 2009

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-39
	)	(IEPA No. 18-09-AC)
DONALD SAPP,	)	(Administrative Citation)
	)	
Respondent.	)	
	)	

ORDER OF THE BOARD (by G.T. Girard):

On, March 12, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation (AC) against Donald Sapp. *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Mr. Sapp's disposal site located at 29321 Dutch Creek Road, Rockport, Pike County, and is known to the Agency as Rockport/Sapp. For the reasons below, the Board accepts Mr. Sapp's petition to contest the AC as timely filed, but directs him to file an amended petition by June 9, 2009, with greater specificity as to why the AC was improperly issued.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), an AC 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 at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that Mr. Sapp violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter at his Pike County site. The Agency asks the Board to impose a \$1,500.00 civil penalty on Mr. Sapp.

As required, the Agency served the AC on Mr. Sapp within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the AC was due by April 15, 2009. On April 17, 2009, Mr. Sapp timely filed a petition to contest the AC. The petition was timely filed because it was postmarked on or before the filing deadline. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b). However, in his petition Mr. Sapp does not allege any reason why the AC was improperly issued with respect to Section 108.206 of the Board's Procedural Rules. *See* 35 Ill. Adm. Code 108.206. Therefore, the Board directs Mr. Sapp to file an amended petition to contest the AC detailing the reasons why he believes the AC was improperly issued. If an

amended petition is not filed by June 8, 2009, the Board will dismiss the petition and enter an order finding that Mr. Sapp violated the Act as alleged in the AC.

By contesting the administrative citation, Mr. Sapp may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 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.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 7, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board