

ILLINOIS POLLUTION CONTROL BOARD
May 17, 2012

COUNTY OF LASALLE,)
)
 Complainant,)
)
 v.) AC 12-50
) (Administrative Citation)
 TAX LIEN INVESTMENTS,)
)
 Respondent.)

ORDER OF THE BOARD (by T.A. Holbrook):

On May 7, 2012, the County of LaSalle (County) timely filed an administrative citation against Tax Lien Investments (respondent). *See* 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s facility located at the northeast corner of Routes 71 and 178, Deer Park Township, Utica, LaSalle County. The property is commonly known to the Agency as the “Tax Lien Investments Property” site and is designated with Site Code No. 0998055004. For the reasons below, the Board accepts respondent’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2010)), 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) (2010); 35 Ill. Adm. Code 108.

In this case, the County alleges that, on April 17, 2012, respondent violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter and open burning. The County asks the Board to impose on respondent the statutory \$1,500.00 civil penalty for each alleged violation, for a total civil penalty of \$3,000.00

As required, the County served the administrative citation on respondent within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due on or before June 2, 2012. On May 3, 2012, respondent timely filed a petition. *See* 415 ILCS 5/31.1(d) (2010); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondent alleges that alleged violations were caused by other individuals and was beyond the control of Respondent. Pet. at 1. Respondent further states that the circumstances giving rise to the violations alleged in the Administrative Citation are being addressed and will be fully remediated within 35 days of its petition for review. *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* 415 ILCS 5/31.1(d)(2) (2010); 35 Ill. Adm. Code 108.300. By contesting the administrative citation, respondent may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2010); 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.

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

The County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2010); 35 Ill. Adm. Code 108.400. If the Board finds that respondent violated Sections 21(p)(1) or (p)(3) of the Act, the Board will impose civil penalties on respondent. 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) (2010); 35 Ill. Adm. Code 108.500(a). However, if the Board finds 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) (2010); *see also* 35 Ill. Adm. Code 108.500(b). In addition, the Board has previously stated that "[t]he Act, by its terms, does not envision a properly issued administrative citation being dismissed or mitigated because a person is cooperative or voluntarily cleans-up the site." IEPA v. Jack Wright, AC 89-227, slip op. at 7 (Aug. 30, 1990).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 17, 2012, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board