

ILLINOIS POLLUTION CONTROL BOARD
September 5, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 14-3
)	(IEPA No. 174-13-AC)
THOMAS and HEATHER FARRIS,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On July 8, 2013, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Thomas and Heather Farris (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent's facility located in Bartlett & Gordon's Addition Lots 1 thru 13, Block 6 in Hamilton, Hancock County. The property is commonly known to the Agency as the "Farris, Thomas and Heather" site and is designated with Site Code No. 0670405029. For the reasons below, the Board accepts respondent Thomas Farris' petition to contest the administrative citation. The Board, however, withholds a final order concerning Heather Farris until the Board reaches a final determination regarding Thomas Farris.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on May 30, 2013, respondents violated Sections 21(p)(1), 21(p)(3) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(3), 21(p)(7) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and deposition of general construction or demolition debris, or clean construction or demolition debris at the Hancock County site. The Agency asks the Board to impose on 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 respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by August 12, 2013. On July 25, 2013, respondent Thomas Farris timely filed a petition. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). Thomas Farris alleges that he

does not own the property in question and that the true owners of the property were not properly served. *See* 35 Ill. Adm. Code 108.206.

The Board accepts Thomas Farris' 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) (2012). By contesting the administrative citation, Thomas Farris may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2012); 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.

DEFAULT JUDGMENT AGAINST HEATHER FARRIS

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) (2012); *see also* 35 Ill. Adm. Code 108.202(b). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. On July 17, 2013, the Agency filed proof that it had timely served the administrative citation on Heather Farris on July 6, 2013. Heather Farris' petition for review would have been due on or before August 12, 2013. Heather Farris filed no petition for review.

If a respondent fails to file a timely petition for review, the Board must find that the respondent committed the violations alleged and impose the corresponding statutory civil penalty. 415 ILCS 31.1(d)(1) (2012); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Heather Farris failed to timely file a petition. Accordingly, the Board finds that Heather Farris violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2012)). However, the Board will withhold a final order concerning Heather Farris until the Board reaches a final determination regarding Thomas Farris. *See Illinois Environmental Protection Agency v. Ray Logsdon Estate, Logsdon Sand and Gravel, and M.K. O'Hara Construction, Inc.*, AC 05-54, slip op. at 3 (Apr. 21, 2005).

HEARING AND FEES FOR THOMAS FARRIS' PETITION

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

The Agency has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2012); 35 Ill. Adm. Code 108.400. If the Board finds that Thomas Farris violated Sections 21(p)(1), 21(p)(3) and 21(p)(7), the Board will impose civil penalties on Thomas Farris. 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) (2012); 35 Ill. Adm. Code 108.500(a).

However, if the Board finds that Thomas Farris “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) (2012); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 5, 2013, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board