

ILLINOIS POLLUTION CONTROL BOARD  
December 17, 2015

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 16-2
	)	(IEPA No. 306-15-AC)
DAN PITNEY,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.D. O’Leary):

On October 2, 2015, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Dan Pitney (respondent). The administrative citation concerns respondent’s property located at 1431 Camp Elwood Road in Rockford, Winnebago County. The property is commonly known to the Agency as the “Rockford/Olbrich” site and is designated with Site Code No. 2010306760. On November 5, 2015, the Board accepted respondent’s petition to contest the administrative citation, but directed respondent to file an amended petition to cure deficiencies identified in the order. On November 19, 2015, respondent timely filed an amended petition for review. For the reasons below, the Board accepts respondent’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), 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) (2014); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on August 20, 2015, respondent violated Section 21(p)(1) and Section 55(k)(1) of the Act (415 ILCS 5/21(p)(1) and 55(k)(1) (2014)) by causing or allowing open dumping in a manner resulting in litter and allowing water to accumulate in used or waste tires at the Winnebago County site. The Agency asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$3,000.

As required, the Agency served the administrative citation on respondent within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2014); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by November 9, 2015. On October 13, 2015, respondent timely filed a petition. On November 5, 2015, the Board accepted the petition but directed petitioner to file an amended petition addressing specified deficiencies. On November 19, 2015, petitioner timely filed an amended

petition (Pet.). The amended petition states that petitioner did not cause or allow the alleged violations and that the alleged violations resulted from uncontrollable circumstances. Pet. at 1.

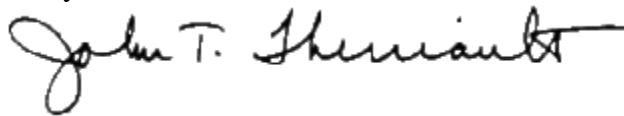
The Board accepts the amended petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 415 ILCS 5/31.1(d)(2) (2014); 35 Ill. Adm. Code 108.300. By contesting the administrative citation, the respondent may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2014); 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.

Respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If respondent 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 respondent withdraws his petition after the hearing starts, the Board will require respondent 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) (2014); 35 Ill. Adm. Code 108.400. If the Board finds that respondent violated Sections 21(p)(1) and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 55(k)(1) (2014)), the Board will impose civil penalties on respondent. The civil penalty for violating any provision of Section 21(p) or 55(k) 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) (2014); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that 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) (2014); *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 December 17, 2015, by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board