

ILLINOIS POLLUTION CONTROL BOARD  
September 4, 2014

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 14-50
	)	(IEPA No. 129-14-AC)
CRAIG S. WALKER, AND WALKER &	)	(Administrative Citation)
SONS ENTERPRISES, LTD,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by D. Glosser):

On May 16, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Craig S. Walker and Walker & Sons Enterprises, LTD (respondents). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents’ facility located at 421 East Moneta Street in Peoria Heights, Peoria County. The property is commonly known to the Agency as “Hutch’s Tire & Lube” and is designated with Site Code No. 1430703003. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

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 April 17, 2014, respondents violated Sections 21(p)(1), 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 21(p)(7), and 55(k)(1) (2012)) by causing or allowing the open dumping of waste in a manner resulting in litter, deposition of general construction or demolition debris or clean construction or demolition debris, and causing or allowing water to accumulate in used/waste tires. 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 July 15, 2014. On July 16, 2014, respondents timely filed a petition. *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b).

Although the Board accepted respondent's petition as timely filed, on July 24, 2014, the Board found that the petition was deficient, as it did not identify recognized grounds for why the respondent believes the administrative citation was improperly issued. *See* 35 Ill. Adm. Code 108.206. The Board therefore directed that respondents file within 30 days an amended petition with the Board that states one or more recognized grounds on which they contest the administrative citation. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency).

On August 22, 2014, respondents timely filed an amended petition (Pet.). *See* 415 ILCS 5/31.1(d) (2012); 35 Ill. Adm. Code 101.300(b), 108.204(b). Respondents allege that the items that the inspector noted as "litter" were simply what happens as one is fixing a vehicle. Respondents further assert that the storage of old shingles does not fit the definition of the "dumping of waste" in the Act because they were not brought from another site and were not dumped on the property as their final resting place, and the number of tires stored outside and uncovered was unusually high due to a reevaluation of inventory. *See* 35 Ill. Adm. Code 108.206.

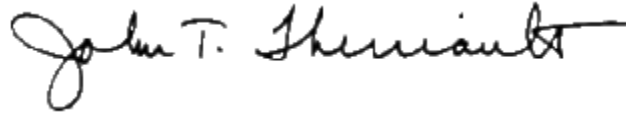
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2012). By contesting the administrative citation, respondents 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](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondent withdraws their petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and the Agency. *See id.* at 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 respondents violated Sections 21(p)(1), 21(p)(7), 55(k)(1) of the Act, the Board will impose civil penalties on respondents. The civil penalty is One Thousand Five Hundred Dollars (\$1,500) for violating any aforementioned provision. *See* 415 ILCS 5/42(b)(4-5) (2012); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents "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 4, 2014, 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 stroke at the end.

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John T. Therriault, Clerk  
Illinois Pollution Control Board