

ILLINOIS POLLUTION CONTROL BOARD
March 21, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-40
)	(IEPA No. 52-02-AC)
ROBERT and JOHN GRAY d/b/a GRAY'S)	(Administrative Citation)
MATERIAL SERVICE)	
)	
Respondents.)	

ORDER OF THE BOARD (by C.A. Manning):

On February 13, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert and John Gray d/b/a Gray's Material Service (Grays). See 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Grays violated Sections 21(p)(1), (p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2000)). The Agency further alleges that Grays violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of construction or demolition debris at a facility located at 834 East Second Street, Gilman, Iroquois County.

As required, the Agency served the administrative citation on Grays within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2000); see also 35 Ill. Adm. Code 108.202(b). On March 18, 2002, Grays timely filed a petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). Grays alleges that it did not cause or allow the alleged violations, or the allegations do not otherwise constitute violations of the Act. See 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

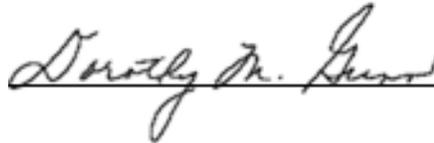
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; see also 415 ILCS 5/31.1(d)(2) (2000). By contesting the administrative citation, Grays may have to pay the hearing costs of the Board and the Agency. See 415 ILCS 5/42(b)(4-5) (2000); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available at the Board's offices and on the Board's Web site at www.ipcb.state.il.us. 35 Ill. Adm. Code 504.

Grays may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Grays chooses to withdraw its petition, it must do so in writing, unless it does so orally at hearing. See 35 Ill. Adm. Code 108.208. If Grays withdraws its petition after the hearing starts, the Board will require Grays 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) (2000); 35 Ill. Adm. Code 108.400. If the Board finds that Grays violated Sections 21(p)(1), (p)(3) and (p)(7) of the Act, the Board will impose civil penalties on Grays. The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2000); 35 Ill. Adm. Code 108.500. However, if the Board finds that Grays “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) (2000); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 21, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board