

ILLINOIS POLLUTION CONTROL BOARD

January 22, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-27
	)	(IEPA No. 686-03-AC)
DOUGLAS S. CARRICO d/b/a CARRICO'S	)	(Administrative Citation)
AUTO HEAP,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

On December 1, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Douglas S. Carrico, d/b/a Carrico's Auto Heap (Mr. Carrico). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Mr. Carrico caused or allowed the open dumping of waste resulting in litter in violation of Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)). The Agency further alleges that Mr. Carrico violated these provisions by allowing the open dumping of various vehicles, auto parts, and tires on property located at 19291 Carrico Road, Kane, Greene County.

As required, the Agency served the administrative citation on Mr. Carrico within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On January 6, 2004, Mr. Carrico timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Mr. Carrico alleges he signed a tire removal agreement with the Agency on August 8, 2004, and that he has fully complied with the Agency's requests to clean up his property. *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) (2002). By contesting the administrative citation, Mr. Carrico may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)[(4) or (4-5)] (2002); 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](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 504.

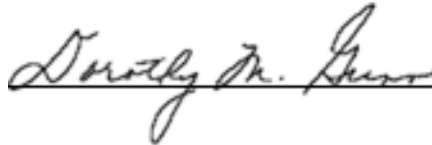
Mr. Carrico may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Mr. Carrico chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Mr.

Carrico withdraws his petition after the hearing starts, the Board will require Mr. Carrico 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) (2002); 35 Ill. Adm. Code 108.400. If the Board finds that Mr. Carrico violated Section 21(p)(1), the Board will impose civil penalties on Mr. Carrico. 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) or (4-5)] (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that Mr. Carrico “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) (2002); *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 January 22, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board