

ILLINOIS POLLUTION CONTROL BOARD

February 5, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-32
	)	(IEPA No. 759-03-AC)
ROSEMARY PEHM,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.P. Novak):

On December 29, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Rosemary Pehm. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Rosemary Pehm violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The Agency further alleges that Rosemary Pehm violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) open burning; and (3) deposition of general construction or demolition debris or clean construction or demolition debris at three miles south of the junction of Routes 18 and 29 in Henry, Marshall County.

As required, the Agency served the administrative citation on Rosemary Pehm 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 28, 2004, Rosemary Pehm timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Rosemary Pehm alleges that she did not cause the violations to occur and that the violations resulted from uncontrollable circumstances. *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, Rosemary Pehm may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(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.

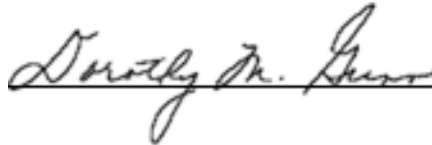
Rosemary Pehm may withdraw her petition to contest the administrative citation at any time before the Board enters its final decision. If Rosemary Pehm chooses to withdraw her petition, she must do so in writing, unless she does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Rosemary Pehm withdraws her petition after the hearing starts, the Board will

require Rosemary Pehm 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 Rosemary Pehm violated Section 21(p)(1), (p)(3), and (p)(7), the Board will impose civil penalties on Rosemary Pehm. 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) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that Rosemary Pehm “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 February 5, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board