

ILLINOIS POLLUTION CONTROL BOARD
February 1, 2007

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-28
)	(IEPA No. 310-06-AC)
CHARLES NORMAN BARTLETT,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On December 18, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Norman Bartlett (Bartlett). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns Bartlett's site known as Hamburg Pct./Bartlett, which is located approximately 2.5 miles northeast of Hamburg and north of Irish Hollow Road in Calhoun County. For the reasons below, the Board accepts Bartlett's petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2002); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that Bartlett violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (7) (2004)) by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris at the site. The Agency asks the Board to impose on Bartlett the statutory civil penalty of \$1,500 for each alleged violation, for a total civil penalty of \$3,000.

As required, the Agency served the administrative citation on Bartlett within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 101.300(a), 108.202(b) (Bartlett was personally served on December 18, 2006, which was the first business day following the 60th day after the Agency's October 17, 2006 site visit). The Board received a petition for review from Bartlett on January 24, 2007. The petition was timely filed because it was postmarked on the filing deadline of January 22, 2007. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Bartlett alleges that he had a load of shingles on his truck to dispose, but the only landfill he knew of at the time had closed. According to the petition, when Bartlett needed to remove the load from his truck to get the vehicle inspected, he discovered that the load of shingles had frozen to the truck's bed. Bartlett

alleges that only by backing up his truck fast and braking hard four times was he able to dislodge the frozen shingles, resulting in four piles at the site. The petition states that when Bartlett learned of an open landfill and was prepared to re-load his truck with the shingles for disposal, the truck's engine had stopped working. *See* 35 Ill. Adm. Code 108.206.

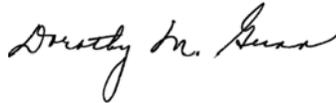
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, Bartlett may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2004); 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. *See* 35 Ill. Adm. Code 504.

Bartlett may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Bartlett 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 Bartlett withdraws his petition after the hearing starts, the Board will require Bartlett 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) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that Bartlett violated Section 21(p)(1) or (p)(7), the Board will impose civil penalties on Bartlett. The civil penalty for violating any provision of Section 21(p) is \$1,500 for each violation, except that the penalty amount imposed is \$3,000 for a second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that Bartlett "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) (2004); *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 1, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board