

ILLINOIS POLLUTION CONTROL BOARD  
December 20, 2001

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 02-17
	)	(IEPA No. 424-01-AC)
CHARLES GOODWIN,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On October 22, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Goodwin. *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Goodwin violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2000)). The Agency further alleges that Goodwin violated these provisions by causing or allowing open dumping of waste resulting in litter at a facility in Pike County.

As required, the Agency served the administrative citation on Goodwin 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 November 9, 2001, Goodwin timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b).

However, in a November 15, 2001 order, the Board found that Goodwin’s petition failed to include any reasons why he believed that the citation was improperly issued. *See* 35 Ill. Adm. Code 108.206. The Board granted Goodwin leave to file an amended petition for review and set a December 20, 2001 deadline for Goodwin to file.

On December 13, 2001, Goodwin filed an amended petition for review. Goodwin alleges that the facility in question is not an open dump, that he has not caused open dumping resulting in litter, that he is in the process of cleaning up litter caused by other persons, and that he is not the sole owner of the facility. *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, Goodwin 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.

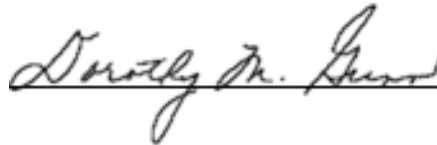
Goodwin may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Goodwin chooses to withdraw its petition, he must

do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Goodwin withdraws its petition after the hearing starts, the Board will require Goodwin 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 Goodwin violated 415 ILCS 5/21(p)(1), the Board will impose civil penalties on Goodwin. 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 Goodwin “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 December 20, 2001 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