

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 2003

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-6
	)	(IEPA No. 391-03-AC)
MARY LOU RECORD and H. FRANK	)	(Administrative Citation)
RECORD,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On August 15, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mary Lou Record and H. Frank Record (Records). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the Agency's allegation that the Records violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act). (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The Agency further alleges that the Records violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter, causing or allowing the open dumping of waste in a manner that resulted in open burning, and causing or allowing the open dumping of waste in a manner that resulted in deposition of general construction or demolition debris at 31011 North County Highway 2, Ellisville, Fulton County.

As required, the Agency served the administrative citation on the Records 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 September 15, 2003, the Records timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). The Records allege that the Agency improperly issued the administrative citation because the Records did not cause or allow the open dumping of waste. *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, the Records 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 Website at <http://www.ipcb.state.il.us>. 35 Ill. Adm. Code 504.

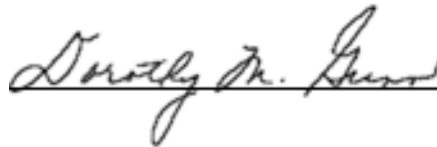
The Records may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the Records choose to withdraw their petition, they

must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the Records withdraw their petition after the hearing starts, the Board will require the Records 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 the Records violated Section 21(p)(1), (p)(3), and (p)(7) of the Act, the Board will impose civil penalties on the Records. 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 the Records “[have] 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 September 18, 2003, 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