

ILLINOIS POLLUTION CONTROL BOARD
April 1, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-52
)	(IEPA No. 44-04-AC)
GLENN COOPER, BETTY COOPER, and)	(Administrative Citation)
RONALD GERNAY d/b/a RON'S)	
SANDBLASTING, PAINTING, and POWER)	
WASHING,)	
)	
Respondents.)	

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

On February 26, 2004, the Agency timely filed an administrative citation against Glenn Cooper, Betty Cooper, and Ronald Gernay (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that the respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)). The Agency further alleges that the respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter at the north half of the southwest quarter of Section 33, Township 18 North, Range 12 West of the Third Principal Meridian, located south of Beardstown on Routes 67 and 100, north of the Appaloosa Trailer Park, in Cass County.

As required, the Agency served the administrative citation on the respondents 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). To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406.

Here, on March 9, 2004, the Agency submitted proof that Ronald Gernay had received service on February 25, 2004; consequently, any timely petition for review for this respondent would have to be postmarked on or before March 31, 2004. On March 15, 2004, the Agency submitted proof that Glenn and Betty Cooper received service on February 26, 2004; consequently, any timely petition for review for these respondents would have to be postmarked on or before April 1, 2004. *See* 35 Ill. Adm. Code 101.300(b)(2).

On March 25, 2004, respondents Glen Cooper and Ronald Gernay filed a handwritten, one-sentence “petition for review” of the administrative citation. *See* 415 ILCS 5/31.1(d)

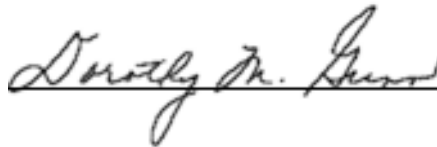
(2002); 35 Ill. Adm. Code 108.204(b). The Board finds that the petition for review is deficient for the following reasons:

1. The petition states no basis for the appeal as required under 35 Ill. Adm. Code 108.206;
2. The petition does not include an appropriate proof of service, as required under 35 Ill. Adm. Code 101.304;
3. The respondents failed to file one signed original and nine copies of their petition for review, as required by 35 Ill. Adm. Code 101.302(h); and
4. Glen Cooper cannot sign a petition for review on behalf of Betty Cooper. If Betty Cooper does not sign any amended petition, the Board must find her in violation as charged in the administrative citation.

The Board directs the respondents to file an amended petition for review that corrects the above-described deficiencies before May 1, 2004 (30 days from the date of this order). If the respondents fail to file an adequate amended petition, the Board may dismiss the appeal filed on March 25, 2004 as inadequate and enter an order of default against the respondents, finding them in violation and assessing the statutory \$1,500 penalty.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 1, 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