

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-51
)	(IEPA No. 83-04-AC)
MICHAEL MORETON,)	(Administrative Citation)
)	
Respondent.)	

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

On February 26, 2004, the Agency timely filed an administrative citation against Michael Moreton (Moreton). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Moreton violated Sections 21(p)(1) and (7) of the Environmental Protection Act. 415 ILCS 5/21(p)(1), (7) (2002). The Agency further alleges that Moreton violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and the deposition of construction or demolition debris at the southeast corner of the intersection of Coles County roads 1380 N and 2330 E, T.13N-R.10E, Ashmore Township, Ashmore in Coles County.

As required, the Agency served the administrative citation on Moreton 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 Moreton fails to do so, the Board must find that he 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.

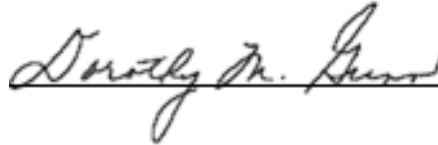
On March 9, 2004, the Agency submitted proof that Moreton had received service on February 26, 2004; consequently, any timely petition for review for this respondent would have to be postmarked on or before April 1, 2004. *See* 35 Ill. Adm. Code 101.300(b)(2). On March 31, 2004, Moreton filed a handwritten petition for review of the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). In total, the petition states: “Sir/Madam, Please consider this as my ‘petition for review’, and please set new hearing for no sooner than 60 days from today’s date.”

The Board finds that the petition for review is deficient because it does not state a basis for the appeal, and does not include an appropriate proof of service. *See* 35 Ill. Adm. Code 101.304 and 108.206.

The Board directs Moreton to file an amended petition for review that corrects these deficiencies on or before May 14, 2004. If Moreton fails to file an adequate amended petition, the Board may dismiss the appeal filed on March 31, 2004, as inadequate and enter an order of default against the respondent, finding him in violation and assessing the statutory \$3,000 penalty sought by the Agency.

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 15, 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