

ILLINOIS POLLUTION CONTROL BOARD
June 3, 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 Illinois Environmental Protection Agency (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). On March 31, 2004, Moreton filed a petition for review of the administrative citation. On April 15, 2004, the Board issued an order finding the petition for review deficient and directing Moreton to file an amended petition for review on or before May 14, 2004. On May 11, 2004, Moreton filed an amended petition for review.

In the amended petition, Moreton denies the alleged violations and asserts that he did not cause or allow the alleged violations, that the alleged violations were the result of uncontrollable circumstances and that some of the items in question are not litter but recyclable. The Board accepts the petition for hearing.

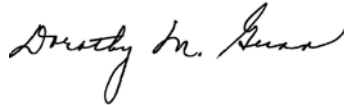
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, Moreton may have to pay the 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 Web site at www.ipcb.state.il.us. 35 Ill. Adm. Code 504.

Moreton may withdraw the petition to contest the administrative citation at any time before the Board enters its final decision. If Moreton chooses to withdraw the petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Moreton withdraws the petition after the hearing starts, the Board will require him 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 Moreton violated Section 21 (p)(1) and (7) of the Act (415 ILCS 5/21(p)(1) and (7) (2002)) the Board will impose civil penalties. 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 Moreton “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) (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 June 3, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board