

ILLINOIS POLLUTION CONTROL BOARD
November 18, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	AC 05-29
v.)	(IEPA No. 412-04-AC)
)	(Administrative Citation)
CHARLES L. RIGGINS,)	
)	
Respondent.)	

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

On October 4, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Mr. Charles L. Riggins. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on August 12, 2004, Mr. Charles L. Riggins violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)). The Agency further alleges that Mr. Riggins violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter at his facility located at 10364 N. CR 2800 E, Easton, Mason County.

As required, the Agency served the administrative citation on Mr. Riggins 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 November 3, 2004, Mr. Riggins timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). In his petition, Mr. Riggins claims he has not violated the Act and requests a hearing. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

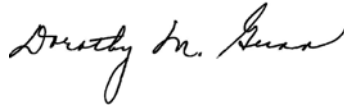
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, Mr. Riggins may have to pay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

The Agency may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Mr. Riggins 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 Mr. Riggins withdraws its petition after the hearing starts, the Board will require Mr. Riggins 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 Mr. Riggins violated Section 21(p)(1), the Board will impose civil penalties on Mr. Riggins. 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 Mr. Riggins “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 November 18, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board