

ILLINOIS POLLUTION CONTROL BOARD
March 3, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-52
)	(IEPA No. 9-05-AC)
ROBERT DANIEL SPEARS,)	(Administrative Citation)
)	
Respondent.)	

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

On February 3, 2005, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Robert Daniel Spears. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on December 15, 2004, Robert Daniel Spears violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(3) (2002)). The Agency further alleges that Robert Daniel Spears violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter and (2) open burning at 4791 U.S. Highway 67, Beardstown, Cass County.

As required, the Agency served the administrative citation on Robert Daniel Spears 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 February 24, 2005, Robert Daniel Spears timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Robert Daniel Spears alleges that he vacated the property on November 6, 2004, when his ex-wife took over and occupied the property. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

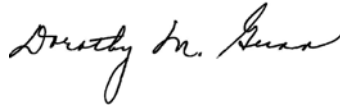
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, Robert Daniel Spears may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

Robert Daniel Spears may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Robert Daniel Spears chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Robert Daniel Spears withdraws his petition after the hearing starts, the Board will require Robert Daniel Spears 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 Robert Daniel Spears violated Section 21(p)(1) and Section 21(p)(3), the Board will impose civil penalties on Robert Daniel Spears. 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 Robert Daniel Spears “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 March 3, 2005, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board