

ILLINOIS POLLUTION CONTROL BOARD  
June 2, 2005

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 05-64
	)	(IEPA No. 95-05-AC)
CHARLES BELLEMEY and WILLIE	)	(Administrative Citation)
DOUCHER,	)	
	)	
Respondents.	)	

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

On April 11, 2005, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Bellemey and Willie Doucher (collectively, respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on March 14, 2005, respondents violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)). The Agency further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; and (2) deposition of general construction or demolition debris or clean construction or demolition debris at approximately 200 feet west of North Lincoln Avenue on Wilbur Avenue, Urbana, Champaign County.

As required, the Agency served the administrative citation on 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). This order accepts a petition for review of the administrative citation filed by Charles Bellemey and enters a default judgment against Willie Doucher.

**ACCEPT CHARLES BELLEMEY’S PETITION FOR REVIEW**

On May 31, 2005, Charles Bellemey timely filed a letter, which the Board construes as a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Because the postmark date of the petition is within the time for filing, the petition was timely filed. 35 Ill. Adm. Code 101.300(b)(2). Charles Bellemey alleges that he sold the site where the violations occurred to Pirtle Docher, Inc. under a contract for deed dated January 8, 2002, so that he believes “the contract buyers are responsible for all liens and violations. *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, Charles Bellemey 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](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 504.

Charles Bellemey may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Charles Bellemey 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 Charles Bellemey withdraws his petition after the hearing starts, the Board will require Charles Bellemey 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 Charles Bellemey violated Section 21(p)(1) and (p)(7), the Board will impose civil penalties on Charles Bellemey. 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 Charles Bellemey "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).

### **DEFAULT AGAINST WILLIE DOUCHER**

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 violations alleged and impose the corresponding civil penalty. 415 ILCS 5/31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on May 16, 2005, as to respondent Willie Doucher. Willie Doucher failed to timely file a petition. Accordingly, the Board finds that Willie Doucher violated Section 21(p) of the Act.

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(a). Because there are two violations of Section 21(p) and these violations are first offenses, the total civil penalty is \$3,000. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

### **ORDER**

1. The Board finds that Willie Doucher violated Sections 21(p)(1) and (p)(7) of the Act as alleged. Willie Doucher must pay a civil penalty of \$3,000 no later than July 5, 2005, which is the first business day after the 30th day after the date of this order.
2. Willie Doucher must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case

number, case name, and respondents' social security numbers or federal employer identifications number must be included on the certified check or money order.

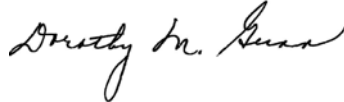
3. Willie Doucher must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 2, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board