

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-72
)	(IEPA No. 144-05-AC)
GARY CLOVER d/b/a CLOVER)	(Administrative Citation)
CONCRETE,)	
)	
Respondent.)	

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

On May 23, 2005, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Gary Clover (Clover), doing business as Clover Concrete. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on March 31, 2005, Clover violated Section 21(p)(1), (p)(3), and (p)(4) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), and (p)(4) (2004)). The Agency further alleges that Clover violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter, (2) open burning, and (3) deposition of waste in standing or flowing waters at 11704 North Route 37, Marion, Williamson County.

As required, the Agency served the administrative citation on Clover within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On June 16, 2005, Clover timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Clover alleges that (1) he is not the Clover responsible for the prior violations in Jackson County that were involved in County of Jackson v. Gary Clover, AC 04-37 (Mar. 18, 2004); (2) he burned brush and not waste, and that burning was with permission of the local fire department; (3) there was no water in the burn pit, as alleged by the Agency; (4) he allowed a neighboring landowner to dig a trench to facilitate drainage of his adjoining property; and (5) he is filling a large pit on the property that was existing when he bought it to keep four-wheelers from getting hurt using it. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

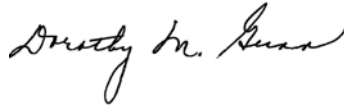
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, Clover may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b) (4-5) (2004); 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.

Clover may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Clover 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 Clover withdraws his petition after the hearing starts, the Board will require Clover 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) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that Clover violated Section 21(p)(1), (p)(3), and (p)(4), the Board will impose civil penalties on Clover. 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 Clover “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) (2004); *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 July 7, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board