

ILLINOIS POLLUTION CONTROL BOARD
May 4, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-30
)	(IEPA No. 44-06-AC)
RICK LINNABURY,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by G.T. Girard):

On March 14, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Rick Linnabury. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on February 2, 2006 Rick Linnabury violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7) (2004)). The Agency further alleges that Rick Linnabury 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. The alleged violations occurred at a site located at 708 North Broadway Street, Newman, Douglas County.

As required, the Agency served the administrative citation on Rick Linnabury 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 April 27, 2006, Rick Linnabury timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 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). Rick Linnabury alleges that he did not cause or allow the alleged violations to occur. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

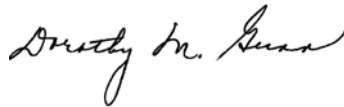
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, Rick Linnabury may have to 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.

Rick Linnabury may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Rick Linnabury 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 Rick Linnabury withdraws his petition after the hearing starts, the Board will require Rick Linnabury 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 Rick Linnabury violated Section 21(p)(1) and (p)(7), the Board will impose civil penalties on Rick Linnabury. 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) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that Rick Linnabury “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 May 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board