

ILLINOIS POLLUTION CONTROL BOARD
July 6, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-49
)	(IEPA No. 96-06-AC)
MICHAEL GRUEN and JON ERIC GRUEN,)	(Administrative Citation)
d/b/a JON'S TREE SERVICE,)	
)	
Respondents.)	

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

On June 2, 2006 the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Michael Gruen and Jon Eric Gruen (respondents). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on April 20, 2006 respondents violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2004)). The Agency further alleges that respondents violated this provision by causing or allowing the open dumping of waste in a manner that resulted in litter. The alleged violations occurred at a site located in the southwest quarter of Section 15, Township 7 north, Range 6 west of the Third Principal Meridian, Macoupin 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) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On June 28, 2006, respondents 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). Respondents allege that the materials pictured in the course of the Agency's inspection were materials of value that were not waste. *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, Respondents 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.

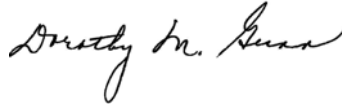
Respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If

respondents withdraws their petition after the hearing starts, the Board will require respondents 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 respondents violated Section 21(p)(1), the Board will impose civil penalties on respondents. 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 respondents “ha[ve] 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 6, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board