

ILLINOIS POLLUTION CONTROL BOARD

July 6, 2006

| | | |
|------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 06-35 |
| |) | (IEPA No. 70-06-AC) |
| JERRY L. WATSON, |) | (Administrative Citation) |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by A.S. Moore):

On April 3, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Jerry L. Watson. See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that, on March 2, 2006, Jerry L. Watson violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2004)). The Agency further alleges that Jerry L. Watson 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 8980 Crenshaw Road in rural Energy, Williamson County.

As required, the Agency served the administrative citation on Jerry L. Watson 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 May 8, 2006, the respondent sent a letter to Special Assistant Attorney General Michelle M. Ryan. In that letter, the respondent alleges that he has performed some cleanup work at the site, that he was unaware that further work was required, and that some of the pictured items are not waste but stored usable materials and items. Also in that letter, the respondent requested additional time, until March 2007, to remove the remaining materials at the site. See 35 Ill. Adm. Code 108.206.

In an order dated May 18, 2006, the Board accepted the respondent’s letter as a timely-filed petition but stated the Board could not accept the filing as a complete petition to contest the administrative citation and authorize a hearing pursuant to 35 Ill. Adm. Code 108.300. Specifically, the Board in that order stated that the petition is deficient in that it does not clearly specify the grounds for appeal, as required by 35 Ill. Adm. Code 108.206. The Board directed the respondent to amend his petition for review to include this information within 30 days from the date of that order, on or before June 19, 2006, or the Board would dismiss the petition and enter a default in this matter pursuant to 35 Ill. Adm. Code 108.406.

On June 22, 2006, the Board received a document postmarked June 19, 2006 from the respondent. In that document, which the Board construes as an amended petition for review, the

respondent alleges that he did not cause or allow the alleged violation. *See* 35 Ill. Adm. Code 108.206. The Board accepts the amended petition for hearing.

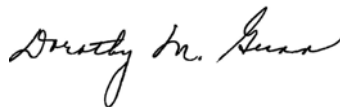
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, the respondent may have to 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 108.504.

The respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If the respondent chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the respondent withdraws his petition after the hearing starts, the Board will require the respondent to pay the hearing costs of the Board and the Agency. *See* 35 Ill. Adm. Code 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 the respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2004)), the Board will impose civil penalties on the respondent. 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 the respondent "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 6, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board