

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2006

|                 |   |                           |
|-----------------|---|---------------------------|
| COUNTY OF OGLE, | ) |                           |
|                 | ) |                           |
| Complainant,    | ) |                           |
|                 | ) |                           |
| v.              | ) | AC 06-53                  |
|                 | ) | (Administrative Citation) |
| GEORGE C. HEAL, | ) |                           |
|                 | ) |                           |
| Respondent.     | ) |                           |

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

On June 16, 2006, the County of Ogle timely filed an administrative citation against George C. Heal. See 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The County of Ogle alleges that on April 21, 2006, George C. Heal violated Section 21(p)(3) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(3) and (p)(7) (2004)). The County of Ogle further alleges that George C. Heal violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) open burning; and (2) deposition of general construction or demolition debris or clean construction or demolition debris. The alleged violations occurred in Ogle County.

As required, the County of Ogle served the administrative citation on George C. Heal 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 July 25, 2006, George C. Heal 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). George C. Heal alleges that (1) he was out of town at the time the administrative citation was served, and the person who signed for the certified mail was unauthorized to sign for mail; (2) the debris has been cleaned up since the time of the inspection that gave rise to the administrative citation; and (3) he was unaware that burning the torn-down barn was unlawful. See 35 Ill. Adm. Code 108.206.

The Board accepts the petition for hearing. But, in the interests of administrative economy, the Board directs the hearing officer to postpone scheduling of hearing. The Board directs the County of Ogle to address the issue of adequacy of service of the administrative citation on George C. Heal. The County of Ogle must file an appropriate document with the Board no later than August 25, 2006 that addresses this issue. Mr. Heal may file a response, if he chooses to do so, on or before September 8, 2006.

The Board directs the hearing officer to proceed expeditiously to hearing, once the service issue has been resolved. 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, George C. Heal may have to pay the hearing costs of the

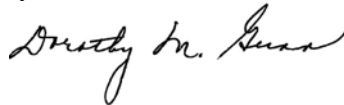
Board and the County of Ogle. *See* 415 ILCS 5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available at the Board's offices and on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 504.

George C. Heal may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If George C. Heal 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 George C. Heal withdraws his petition after the hearing starts, the Board will require George C. Heal to pay the hearing costs of the Board and the County of Ogle. *See id.* at 108.500(c).

The County of Ogle 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 George C. Heal violated Section 21(p)(3) and (p)(7), the Board will impose civil penalties on George C. Heal. 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 George C. Heal "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 August 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board