

ILLINOIS POLLUTION CONTROL BOARD

July 11, 2002

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 02-60
)	(IEPA No. 246-02-AC)
LITTLE DOZING SERVICE, INC,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by M.E. Tristano):

On June 17, 2002, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Little Dozing Service, Inc (Respondent). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that the Respondent violated Section 21 (p)(1), (p)(3), and (p)(7) of the Environmental Protection Act. 415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2000). The Agency further alleges that the Respondent violated these provisions by causing open dumping, causing open dumping resulting in open burning, and causing open dumping in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris in Shiloh Township, Edgar County.

As required, the Agency served the administrative citation on the Respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). On June 24, 2002, the Respondent timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). The Respondent alleges it has not owned the affected property at any time and did not cause or allow the open dumping. *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) (2000). By contesting the administrative citation, the Respondent may have to pay the hearing costs of the Board and Agency. *See* 415 ILCS 5/42(b)(4-5) (2000); 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.

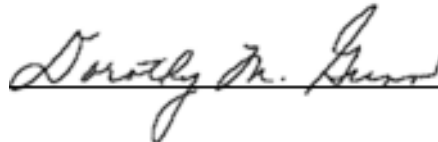
The Respondent may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If the Respondent chooses to withdraw its

petition, it must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the Respondent withdraws its petition after the hearing starts, the Board will require the Respondent 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) (2000); 35 Ill. Adm. Code 108.400. If the Board finds that the Respondent violated Section 21(p)(1), 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) (2000); 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) (2000); *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 11, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board