

ILLINOIS POLLUTION CONTROL BOARD
December 5, 2002

CITY OF CHICAGO DEPARTMENT OF ENVIRONMENT,)	
)	
Complainant,)	
)	
v.)	AC 03-11
)	(IEPA No. 02-05-AC)
CITY WIDE DISPOSAL, INC.,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by C.A. Manning):

On October 25, 2002, the City of Chicago Department of Environment (Department) timely filed an administrative citation against City Wide Disposal, Inc. (City Wide). See 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Department alleges that City Wide violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2000), amended by P.A. 92-0574, eff. June 26, 2002). The Department further alleges that City Wide violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter and deposition of construction or demolition debris at a facility located at 3910 South Loomis Street in Chicago, Cook County.

As required, the Department served the administrative citation on City Wide 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 November 27, 2002, City Wide timely filed a petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). City Wide alleges that it does not own the property in question, it did not cause or allow the alleged violations, and the alleged violations were the result of uncontrollable circumstances. See 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

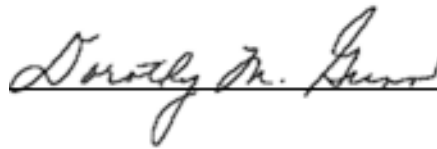
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; see also 415 ILCS 5/31.1(d)(2) (2000). By contesting the administrative citation, City Wide may have to pay the hearing costs of the Board and the Department. 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.

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

The Department 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 City Wide violated Sections 21(p)(1) and (p)(7), the Board will impose civil penalties on City Wide. 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 City Wide “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 December 5, 2002, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board