

ILLINOIS POLLUTION CONTROL BOARD
June 5, 2008

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 08-29
)	(IEPA No. 65-08-AC)
KEISTER’S, INC.,)	(Administrative Citation)
)	
Respondent.)	

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

On May 5, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Keister’s, Inc. (Keister). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 1348 South Main Street, Monmouth, Warren County, designated with Site Code No. 1878080002, and commonly known to the Agency as “Keister’s, Inc.” For the reasons below, the Board accepts as timely filed Keister’s petition to contest the administrative citation, but directs Keister to file an amended petition to cure the deficiencies identified in this order.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that Keister violated Sections 21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2006)) on March 11, 2008, by causing or allowing the open dumping of waste in a manner resulting in litter and open burning at Keister’s Warren County facility. The Agency asks the Board to impose on Keister the statutory \$1,500 civil penalty per violation for a total civil penalty of \$3,000.

As required, the Agency served the administrative citation on Keister within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due within 35 days after the date of service, *i.e.*, by June 6, 2008. *See* 415 ILCS 5/31.1(d)(1) (2006); 35 Ill. Adm. Code 108.204(b). Keister filed a petition with the Board on May 29, 2008. The Board accordingly accepts Keister’s petition as timely filed.

The Board finds, however, that the petition reflects deficiencies that must be remedied before this case can go forward. Specifically, the petition provides no grounds for contesting the

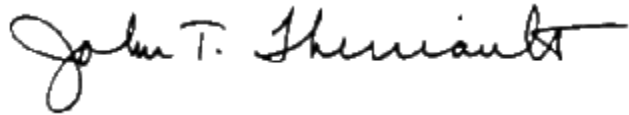
administrative citation. A petition must set forth the reasons why the respondent believes the citation was improperly issued. *See* 35 Ill. Adm. Code 108.206.

The Board therefore directs Keister to file an amended petition stating the grounds on which Keister contests the administrative citation. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). If Keister fails to file an amended petition by July 7, 2008, which is the first business day following the 30th day after the date of this order, Keister's petition will be dismissed and a default order will be entered against him, imposing the \$3,000 civil penalty. *See IEPA v. Ray Logsdon Estate*, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing amended petition as directed to cure deficiency in original petition).

If Keister files an amended petition pursuant to this order and does not prevail on the merits of the case, Keister will have to pay not only the \$3,000 civil penalty but also any hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at www.ipcb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 5, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board