

ILLINOIS POLLUTION CONTROL BOARD

April 17, 2003

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 03-21
)	(IEPA No. 112-03-AC)
JOHN SMITH and TWILLA WILLIAMS)	(Administrative Citation)
SMITH,)	
)	
Respondents.)	

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

On March 5, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against John Smith and Twilla Williams Smith (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that respondents violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), and (p)(7) (2002)). The Agency further alleges that respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter, and causing or allowing the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris at 201 Grand, Anna, Union County.

As required, the Agency served the administrative citation on respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). On April 3, 2003, respondents timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Respondents alleges that the violation has not existed for some time and it was caused by 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) (2002). By contesting the administrative citation, respondents may have to pay the hearing costs of the Board and the 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.

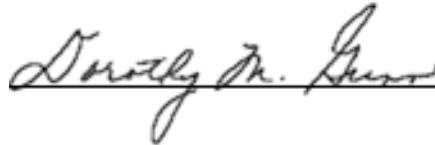
Respondents may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If respondents chooses to withdraw its petition, they must do so in writing, unless they does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If

respondents withdraws its petition after the hearing starts, the Board will require respondents 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) (2002); 35 Ill. Adm. Code 108.400. If the Board finds that respondents violated Section 21(p)(1) and (p)(7), the Board will impose civil penalties on respondents. 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) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that respondents “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) (2002); *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 April 17, 2003, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board