

ILLINOIS POLLUTION CONTROL BOARD

May 15, 2003

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 03-27
	)	(IEPA No. 144-03-AC)
VINCE HARVEY,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On March 26, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Vince Harvey. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the Agency allegation that Vince Harvey violated Section 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 Vince Harvey violated these provisions by causing or allowing open dumping of waste resulting in litter and in deposition of general construction or demolition debris or clean construction or demolition debris at 1456 North East Street, Kewanee, Henry County.

As required, the Agency served the administrative citation on Vince Harvey 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 May 1, 2003, Vince Harvey filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 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). On May 9, 2003, Vince Harvey filed an amended petition to contest the administrative citation. Vince Harvey alleges that removal of the construction debris has begun. *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, Vince Harvey may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2002); 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 Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 504.

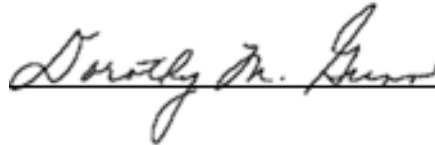
Vince Harvey may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Vince Harvey chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If

Vince Harvey withdraws his petition after the hearing starts, the Board will require Vince Harvey 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 Vince Harvey violated Section 21(p)(1) and (p)(7) of the Act, the Board will impose civil penalties on Vince Harvey. 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 Vince Harvey “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 May 15, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board