

ILLINOIS POLLUTION CONTROL BOARD

February 5, 2004

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-34
	)	(IEPA No. 723-03-AC)
TROY WILLIAMSON and SWORDS	)	(Administrative Citation)
VENEER AND LUMBER COMPANY,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J.P. Novak):

On January 2, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Troy Williamson and Swords Veneer and Lumber Company (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that the respondents violated Section 21(p)(1), (p)(4), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(4), and (p)(7) (2002)). The Agency further alleges that the respondents violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; (2) deposition of waste in standing or flowing waters; and (3) deposition of general or clean construction or demolition debris at the intersection of Schafer Creek and County Road 1900 North (Schroeder Road), near Coal Valley, in Henry County.

As required, the Agency served the administrative citation on the 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 January 26, 2004, respondent Troy Williamson timely filed a petition to contest the administrative citation. On January 29, 2004, respondent Swords Veneer and Lumber Company timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Respondent Troy Williamson alleges that the wood chips hauled to his property were intended for use, and that he is aware that others had used wood chips for landscaping. Respondent Swords Veneer and Lumber Company disputes liability. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petitions for hearing.

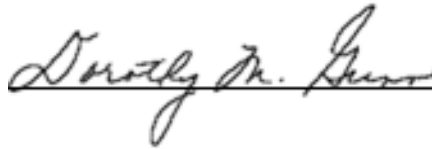
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, the respondents may have 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 Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). 35 Ill. Adm. Code 504.

The respondents may withdraw their respective petitions to contest the administrative citation at any time before the Board enters its final decision. If the respondents chooses to withdraw its petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the respondents withdraw their petitions after the hearing starts, the Board will require the 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 the respondents violated Section 21(p)(1), (p)(4), and (p)(7), the Board will impose civil penalties on the 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 the respondents “[have] 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 February 5, 2004, by a vote of 4-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board