

ILLINOIS POLLUTION CONTROL BOARD

February 5, 2004

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 04-39
)	(County Site Code 0778155007)
EDWARD TOW,)	(Administrative Citation)
)	
Respondent.)	

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

On January 26, 2004, the County of Jackson timely filed an administrative citation against Edward Tow. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County of Jackson alleges that Edward Tow violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)). The County of Jackson further alleges that Edward Tow violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter at Vergennes/Section 13, Jackson County.

As required, the County of Jackson served the administrative citation on Edward Tow 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 30, 2004, Edward Tow timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Edward Tow alleges that (1) the property had been inaccessible to him; and (2) he had been barred from the property. *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, Edward Tow may have to pay the hearing costs of the Board and the County of Jackson. *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. 35 Ill. Adm. Code 504.

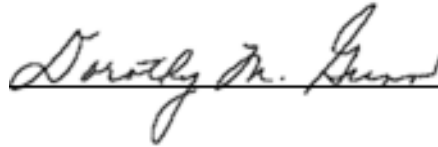
Edward Tow may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Edward Tow chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Edward Tow withdraws his petition after the hearing starts, the Board will require Edward Tow to pay the hearing costs of the Board and the County of Jackson. *See id.* at 108.500(c).

The County of Jackson 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 Edward Tow violated Section

21(p)(1), the Board will impose civil penalties on Edward Tow. 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 Edward Tow “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 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