

ILLINOIS POLLUTION CONTROL BOARD
October 7, 2004

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 05-20
)	(IEPA No. 412-04-AC)
JOHN GROFF and ROBERT GROFF,)	(Administrative Citation)
)	
Respondents.)	

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

On August 30, 2004, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against John Groff and Robert Groff. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on July 29, 2004 John Groff and Robert Groff violated Section 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2002)). The Agency further alleges that John Groff and Robert Groff violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter, (2) open burning, and (3) deposition of general construction or demolition debris or clean construction or demolition debris at 2503 Barton Road, Junction City, Marion County.

As required, the Agency served the administrative citation on John Groff¹ 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 October 4, 2004, John Groff timely 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). John Groff alleges (1) that the wood and tire were being used to burn out a tree stump, and they were not waste; (2) the wood and tire were removed from the site by June 14, 2004 in response to an Agency letter received on June 7, 2004; and (3) his brother Robert Groff has nothing to do with the property, which is John Groff’s house. *See* 35 Ill. Adm. Code 108.206. The Board accepts John Groff’s 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, John Groff 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. 35 Ill. Adm. Code 504.

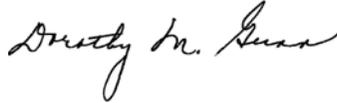
¹ The Agency has not yet submitted to the Board a proof of service on respondent Robert Groff.

John Groff may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If John Groff 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 John Groff withdraws his petition after the hearing starts, the Board will require John Groff 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 John Groff violated Section 21(p)(1), (p)(3), and (p)(7), the Board will impose civil penalties on John Groff. 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 John Groff “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 October 7, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board