

ILLINOIS POLLUTION CONTROL BOARD

May 16, 2002

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 02-51
	)	(IEPA No. 94-02-AC)
GERALD GOINES,	)	(Administrative Citation)
	)	
Respondent.	)	

ORDER OF THE BOARD (by N.J. Melas):

On April 2, 2002, the Environmental Protection Agency (Agency) timely filed an administrative citation against Gerald Goines. *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Goines violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3), and 21(p)(7) (2000)). The Agency further alleges that Goines violated these provisions by allowing open dumping resulting in litter, open burning, and the deposition of construction or demolition debris at 780 Crescent Loop, Vienna, Johnson County.

As required, the Agency served the administrative citation on Goines within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); *see also* 35 Ill. Adm. Code 108.202(b). On May 6, 2002, Goines timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b); 35 Ill. Adm. Code 101.300(b)(2). Goines alleges that he did not cause or allow the alleged violations and that the alleged violations were the result of uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

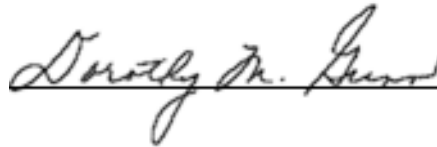
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2000). By contesting the administrative citation, Goines may have to pay the 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. 35 Ill. Adm. Code 504.

Goines may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Goines chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Goines withdraws his petition after the hearing starts, the Board will require Goines 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) (2000); 35 Ill. Adm. Code 108.400. If the Board finds that Goines violated Section 21(p)(1), 21(p)(3), or 21(p)(7), the Board will impose civil penalties on Goines. 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) (2000); 35 Ill. Adm. Code 108.500. However, if the Board finds that Goines “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) (2000); *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 16, 2002, 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