

ILLINOIS POLLUTION CONTROL BOARD
December 18, 2003

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|------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | AC 04-18 |
| v. |) | (IEPA No. 514-03-AC) |
| |) | (Administrative Citation) |
| LUTHER COLEMAN, |) | |
| |) | |
| Respondent. |) | |

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

On October 8, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Luther Coleman. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Luther Coleman 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 Luther Coleman violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and causing or allowing the open dumping of waste in a manner that resulted in deposition of general or clean construction or demolition debris at 624 W. Logan, Harrisburg, Saline County.

As required, the Agency served the administrative citation on Luther Coleman 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 December 5, 2003, Luther Coleman timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Luther Coleman alleges that the allegations are untrue, that the debris cited relates to another property, and that the inspection occurred notwithstanding his refusal of consent. *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, Luther Coleman 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.

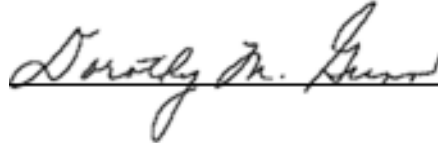
Luther Coleman may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Luther Coleman chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Luther Coleman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

require Luther Coleman 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 Luther Coleman violated Section 21(p)(1) and (p)(7), the Board will impose civil penalties on Luther Coleman. 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 Luther Coleman “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 December 18, 2003, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board