

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 2003

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 04-4
	)	(IEPA No. 390-03-AC)
EDWARD SAPP,	)	(Administrative Citation)
	)	
Respondent.	)	

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

On August 5, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Edward Sapp (Sapp). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the Agency's allegation that Sapp violated Section 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(3) (2002)). The Agency further alleges that Sapp violated these provisions by causing or allowing open dumping of waste in a manner that resulted in litter and causing or allowing open dumping of waste in a manner that resulted in open burning at a facility in Hurlbut Township, Logan County, that has a mailing address of 460 100th Avenue, Athens.

As required, the Agency served the administrative citation on Sapp 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 September 8, 2003, Sapp timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Sapp alleges that the site was never used as a dump, that open burning never occurred on the site, and that the location is cleaned up. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

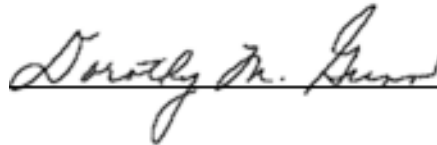
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, Sapp may have to pay the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

Sapp may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Edward Sapp 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 Sapp withdraws his petition after the hearing starts, the Board will require Sapp 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 Sapp violated Section 21(p)(1) and (p)(3) of the Act, the Board will impose civil penalties on Sapp. 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 Sapp “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 September 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