

ILLINOIS POLLUTION CONTROL BOARD
November 6, 2003

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 04-16
)	(IEPA No. 504-03-AC)
JAMES FARLEY,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

On September 25, 2003, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against James Farley (Farley). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Farley violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2002)) by causing or allowing the open dumping of waste in a manner that resulted in litter at the northwest corner of Matheny and Wolfe Streets, in Springfield, Sangamon County.

As required, the Agency served the administrative citation on Farley 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 16, 2003, Farley timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Farley alleges that he did not cause the land pollution, that he took steps to correct the situation, and that he is purchasing but does not operate a business at 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. *See* 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, Farley 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. *See* 35 Ill. Adm. Code 504.

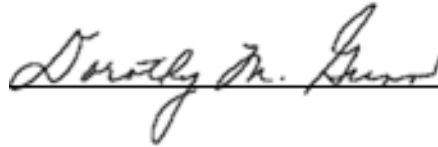
Farley may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Farley chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Farley withdraws his petition after the hearing starts, the Board will require him 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 Farley violated Section 21(p)(1), the Board will

impose civil penalties on him. The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. *See* 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that Farley “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 November 6, 2003, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board