

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2003

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 03-34
)	(IEPA No. 332-03-AC)
OLEN G. PARKHILL, JR.,)	(Administrative Citation)
)	
Respondent.)	

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

On June 12, 2003, the Agency timely filed an administrative citation against Olen G. Parkhill, Jr. (Parkhill). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the Agency's allegation that Parkhill 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 Parkhill violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter, open burning, and deposition of general construction debris or demolition debris or clean construction or demolition debris at the north side of Tin Cup Road, approximately one-quarter mile east of Prairieview Road, Mahomet, Champaign County.

As required, the Agency served the administrative citation on Parkhill 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 July 7, 2003, Parkhill timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 108.204(b). Parkhill asserts that he had only used the property to dispose tree limbs produced on his own property, and that any non-approved material on the site was placed there by others and would be removed for disposal in a landfill. *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, Parkhill 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.

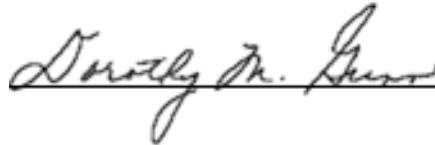
Parkhill may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Parkhill chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Parkhill

withdraws his petition after the hearing starts, the Board will require Parkhill 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 Parkhill violated Section 21(p)(1), (p)(3), and (p)(7), the Board will impose civil penalties on Parkhill. 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 Parkhill “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 July 10, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board