

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2005

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-10
)	(IEPA No. 351-05-AC)
GUIFFRE II, LLC,)	(Administrative Citation)
)	
Respondent.)	

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

On October 6, 2005, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Guiffre II, LLC (Guiffre II). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that on August 9, 2005, Guiffre II violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2004)). The Agency further alleges that Guiffre II violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter; and (2) deposition of general construction or demolition debris or clean construction or demolition debris at 1165 Prairie Hill Road, Rockton, Winnebago County.

As required, the Agency served the administrative citation on Guiffre II within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On November 10, 2005, Guiffre II timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). Guiffre II alleges alternatively (1) that it did not cause or allow the alleged violations, or the allegations do not constitute a violation of the Act, and (2) 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) (2004). By contesting the administrative citation, Guiffre II may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2004); 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.

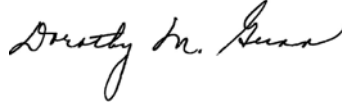
Guiffre II may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If Guiffre II chooses to withdraw its petition, it he she must do so in writing, unless it does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If

Guiffre II withdraws its petition after the hearing starts, the Board will require Guiffre II 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) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that Guiffre II violated Section 21(p)(1) and (p)(7), the Board will impose civil penalties on Guiffre II. 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) (2004); 35 Ill. Adm. Code 108.500. However, if the Board finds that Guiffre II “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) (2004); *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 17, 2005, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board