

ILLINOIS POLLUTION CONTROL BOARD  
August 23, 2001

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 02-3
	)	(IEPA No. 290-01-AC)
MARVIN HAMMACK and DORIS BAKER,	)	(Administrative Citation)
	)	
Respondents.	)	

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

On July 20, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Marvin Hammack and Doris Baker. See 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202 (c). The Agency alleges that the respondents violated Section 21(p)(1) of the Environmental Protection Act (Act). 415 ILCS 5/21(p)(1) (2000). The Agency further alleges that the respondents violated these provisions by causing or allowing the open dumping of waste in a manner resulting in litter at their facility located in Rushville, Schuyler County, Illinois.

As required, the Agency served the administrative citation on the respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); see also 35 Ill. Adm. Code 108.202(b). On August 10, 2001, the respondents timely filed a petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). The respondents allege that they did not own the property at the time the alleged violations occurred, that they did not cause or allow the alleged violations, and that the alleged violations were the result of circumstances beyond the control of the respondents. See 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

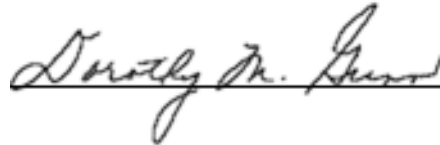
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; see also 415 ILCS 5/31.1(d)(2) (2000). By contesting the administrative citation, the respondents may have to pay the hearing costs of the Board and the Agency. See 415 ILCS 5/42(b) (4-5) (2000); 35 Ill. Adm. Code 108.500.

The respondents may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. See 35 Ill. Adm. Code 108.208. If the respondents withdraw their petition after the hearing starts, the Board will require the respondents 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) (2000); 35 Ill. Adm. Code 108.400. If the Board finds that the respondents violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2000)), the Board will impose civil penalties on the respondents. 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) (2000); 35 Ill. Adm. Code 108.500. However, if the Board finds that the respondents "have 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) (2000); 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 the 23rd day of August 2001 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board