

ILLINOIS POLLUTION CONTROL BOARD
August 17, 2006

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 07-1
) (IEPA No. 131-06-AC)
JOHN SPOEDE,) (Administrative Citation)
)
Respondent.)

ORDER OF THE BOARD (by G.T. Girard):

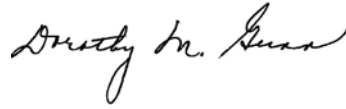
On July 10, 2006, complainant, the Illinois Environmental Protection Agency (Agency), filed an administrative citation with the Board against respondent, John Spoede (Spoede). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Spoede's facility located at 13871 Manito Road in Manito, Tazewell County. For the reasons below, the Board dismisses the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2004); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that Spoede violated three provisions of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2004)) at his Manito facility by causing or allowing the open dumping of waste resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. The administrative citation requests the statutory penalties of \$1,500 for each alleged violation, totaling \$4,500 (415 ILCS 5/42(b)(4-5) (2004)). However, the Agency states in an August 10, 2005 motion to dismiss that it failed to serve the administrative citation on Spoede within "60 days after the date of the observed violation" as required by the Act. 415 ILCS 5/31.1(b) (2004)); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). The Board therefore dismisses this case and closes the docket. *See* 35 Ill. Adm. Code 108.402.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 17, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board