

ILLINOIS POLLUTION CONTROL BOARD
October 19, 2006

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-16
)	(IEPA No. 253-06-AC)
DENNIS BALLINGER,)	(Administrative Citation)
)	
Respondent.)	

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

On September 18, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Dennis Ballinger. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleges that, on August 8, 2006, Dennis Ballinger violated Sections 21(p)(1) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) (2004)) by the open dumping of waste in a manner that resulted in litter. The alleged violations occurred at a site located at 527 N. High Street, Paris, Edgar County.

As required, the Agency served the administrative citation on Jerry L. Watson 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 October 12, 2006, the respondent filed a petition for review, alleging that he had sold the property in January 2006, and did not own it at the time of the August 2006 inspection. 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, the respondent 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.

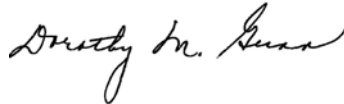
The respondent may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If the respondent chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If the respondent withdraws his petition after the hearing starts, the Board will require the respondent to pay the hearing costs of the Board and the Agency. *See* 35 Ill. Adm. Code 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 the respondent violated Sections 21(p)(1) and (p)(7)

of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2004)), the Board will impose civil penalties on the respondent. 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 the respondent "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 October 19, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board