

ILLINOIS POLLUTION CONTROL BOARD
February 15, 2007

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 07-4
)	(IEPA No. 139-06-AC)
FRANK WILHELM,)	(Administrative Citation)
)	
Respondent.)	

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

On July 28, 2006, complainant, the Illinois Environmental Protection Agency (Agency), timely filed an administrative citation against respondent Frank Wilhelm (Wilhelm) (415 ILCS 5/31.1(c) (2004)); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a site commonly known as “Decatur/Wilhelm” located in Macon County. On September 1, 2006, Wilhelm timely filed a petition to contest the administrative citation claiming that he does not own the property described in the administrative citation, and that if open dumping did occur, it was the result of uncontrollable circumstances. The Board accepted the citation for hearing on September 7, 2006.

On January 19, 2007, Wilhelm filed a motion to dismiss the citation, or in the alternative, a motion for summary judgment against the Agency. In the motion, Wilhelm asserts that he does not own or have control of the site. Mot. at 3, 7. Wilhelm asks that the Board dismiss the citation with prejudice, or grant him summary judgment. Mot. at 9.

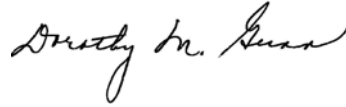
On January 22, 2007, the Agency filed a motion to withdraw the administrative citation. In the motion, the Agency asserts that facts and circumstances discovered since the filing of the citation indicate that it is appropriate to withdraw the citation at this time. Mot at 1. The Agency requests that the Board dismiss the pending action against Wilhelm. Mot. at 2.

On January 30, 2007, Wilhelm filed a motion to withdraw its motion to dismiss. Wilhelm asserts that in light of the Agency’s motion to withdraw the citation he withdraws the January 19, 2007 motion to dismiss, or in the alternative, for summary judgment. Mot. at 2. Wilhelm requests that the Board grant the Agency’s motion and dismiss the pending action. *Id.*

The Board grants Wilhelm’s motion to withdraw the motion to dismiss, or in the alternative, for summary judgment. The Agency’s motion to withdraw is also granted. The Board hereby dismisses the administrative citation against Wilhelm, and closes the docket.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 15, 2007, 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