

ILLINOIS POLLUTION CONTROL BOARD
March 15, 2007

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-50
)	(IEPA No. 98-06-AC)
MARLA LEWIS GATES, MARK GATES and)	(Administrative Citation)
MARK KINGSLEY LEWIS,)	
)	
Respondents.)	

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

This matter is before the Board on a January 23, 2007 motion to produce and time to respond filed by Mark Gates (Gates). In this order the Board will provide background on the proceeding and then address the motion.

BACKGROUND

On June 2, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Marla Lewis Gates, Gates, and Mark Kingsley Lewis (respondents) (415 ILCS 5/31.1(c) (2004)); 35 Ill. Adm. Code 108.202(c). On July 25, 2006, respondent Gates filed a petition to review the administrative citation.

On August 4, 2006, the Board issued an order directing respondent Gates to amend his petition to contest the administrative citation or face dismissal of his appeal, and directing the Agency to file sufficient proof of service as to Marla Lewis Gates and Mark Kingsley Lewis. See *IEPA v. Gates*, AC 06-50, slip op. at 2 (Aug. 4, 2006). The parties were both given until September 5, 2006, to correct their respective filing deficiencies. *Id.*

On October 19, 2006, the Board issued an order dismissing Gates' petition to contest the administrative citation, as well as the administrative citations against Marla Lewis Gates and Mark Kingsley Lewis, finding that neither Gates nor the Agency has submitted any pleadings to correct the deficiencies. In that order, the Board also directed Gates to pay a civil penalty of \$3,000 no later than November 20, 2006. On December 21, 2006, the Board granted a motion for reconsideration filed by Gates. In that order, the Board found that Gates must amend his original petition for review as directed on or before January 22, 2007.

On January 23, 2007, the Board received a pleading from Gates entitled "motion to produce and time to respond." No response to the motion has been received.

MOTION TO PRODUCE AND FOR TIME TO RESPOND

As stated, on January 23, 2007, Gates filed a hand-written motion to produce and for time to respond. In that motion, Gates requests that the Board have all records, reports, pictures and any other pertinent documents produced to him, and then give ample time for a response to be filed. Mot. at 1. Gates asserts that he is in need of the violations against him, and the rules and regulations regarding the cause of action in order to adequately prepare a defense. *Id.*

DISCUSSION

As previously noted, the Agency has not responded to the motion. If a party files no response to a motion within 14 days, the party will be deemed to have waived objection to the granting of the motion. *See* 35 Ill. Adm. Code 101.500(d).

The Board notes that Gates did not amend the petition by January 22, 2007, as directed by the Board in its December 21, 2006 order. However, pursuant to the mailbox rule, Gates' motion was filed prior to the deadline set forth in that order. *See* 35 Ill. Code 101.300(c). The Board grants Gates' motion in part. First, the motion is ill founded in that the Board has no duty to provide records, reports, pictures, and other pertinent documents. Gates has not alleged that the citation was not properly served, or that he is not in actual receipt of the citation. Thus, the Board denies that portion of the motion requesting the Board to produce.

In the Board's December 21, 2006 order, the Board cautioned Gates that if he chooses to represent himself in this matter, he bears the responsibility for that decision, and that while the Agency may be inclined to offer assistance in regards to copies of violations and regulations, it is by no means incumbent on the Agency to assist Gates in the preparation of his case. *See IEPA v. Gates*, AC 06-50, slip op. at 3 (Dec. 21, 2006). That same principle applies in regard to the instant motion directed toward the Board. It is incumbent upon Gates to prepare his own defense. That said, the Board advises Gates that copies of the citation, the Act and the environmental regulations that Gates is alleged to have violated can be found online on the Board's website at www.ipcb.state.il.us. Further, should Gates need assistance in accessing documents from the Board's website, he would be advised to contact Board Hearing Officer Carol Webb.

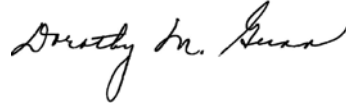
Second, the Board grants Gates' request for additional time to amend his petition. Gates is hereby given until April 13, 2007, to amend his petition to contest the administrative citation as directed in the August 4, 2006 order. Specifically, that order found that Gates' petition for review is deficient because it does not state a basis for the appeal, and therefore fails to meet the content requirements found at Section 108.206 of the Board regulations. *See IEPA v. Gates*, AC 06-50, slip op. at 2 (Aug. 4, 2006), 35 Ill. Adm. Code 108.206.

CONCLUSION

The Board grants Gates' motion in part. The Board will not produce the documents requested, but Gates is given until April 13, 2007, to amend his original petition as directed in this and previous orders.

IT IS SO ORDERED.

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