

ILLINOIS POLLUTION CONTROL BOARD

August 9, 2001

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 01-44
	)	(IEPA No. 174-01-AC)
CHARLES HALEY d/b/a HALEY	)	(Administrative Citation)
BROTHERS CONSTRUCTION,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.A. Manning):

On May 25, 2001, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Haley d/b/a Haley Brothers Construction (Haley). See 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c). The Agency alleges that Haley violated Sections 21(p)(1) and (p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3) (2000)). The Agency further alleges that Haley violated these provisions by causing or allowing open dumping of waste resulting in litter and open burning at the facility at the northwest corner of county roads 3000N and 100E, in Milks Grove Township, Iroquois County.

As required, the Agency served the administrative citation on Haley within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2000); see also 35 Ill. Adm. Code 101.300(b)(2), 108.202(b). On July 30, 2001, Haley timely filed an amended petition to contest the administrative citation. See 415 ILCS 5/31.1(d) (2000); 35 Ill. Adm. Code 108.204(b). Haley alleges the violations alleged do not apply to the respondent. 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, Haley 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.

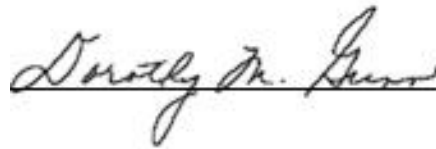
Haley may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Haley chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. See 35 Ill. Adm. Code 108.208. If Haley withdraws his petition after the hearing starts, the Board will require Haley 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 Haley violated Sections

21(p)(1) and (p)(3) of the Act (415 ILCS 5/21(p)(1), (p)(3) (2000)), the Board will impose civil penalties on Haley. 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 Haley "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) (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 above order was adopted on the 9th day of August 2001 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board