

ILLINOIS POLLUTION CONTROL BOARD
June 21, 2007

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 06-50
)	(IEPA No. 98-06-AC)
MARK GATES,)	(Administrative Citation)
)	
Respondent.)	

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

On June 2, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Marla Lewis Gates, Mark Gates, and Mark Kingsley Lewis. *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a property commonly known to the Agency as “Lincoln/Lewis” and designated with Site Code No. 1078075001.

The Board dismissed the citation as to respondents Marla Lewis Gates and Mark Kingsley Lewis by order of October 19, 2006. *See* IEPA v. Gates, AC 06-50 (Oct. 19, 2006). The administrative citation alleges that Mark Gates, as the sole remaining respondent, violated Sections 21(p)(1) and (7) of the Act. 415 ILCS 5/21(p)(1) and (7) (2006). According to the Agency, Mark Gates violated these provisions of the Act by causing or allowing the open dumping of waste, resulting in litter and the deposition of construction or demolition debris at a site located in part of the west 1/2 of the southwest 1/4 of Section 8 in Township 21 North and Range 2 West of the 3rd Principal Meridian in Logan County.

On May 29, 2007, respondent Mark Gates filed an amended petition for review of the administrative citation, consistent with various Board orders. *See* IEPA v. Gates, AC 06-50 (Aug. 4, 2006), (Dec. 21, 2006), and (Mar. 15, 2007). As the amended petition states the basis for the appeal, as ordered, 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. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, 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 from the Clerk of the Board and on the Board’s Web site at www.ipcb.state.il.us. *See* 35 Ill. Adm. Code 108.504.

Mark Gates may withdraw the petition to contest the administrative citation at any time before the Board enters its final decision. If Mark Gates chooses to withdraw the petition, he

must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Mark Gates withdraws the petition after the hearing starts, the Board will require respondent 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) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that respondent has violated Section 21(p)(1) or (p)(7), the Board will impose civil penalties on respondent. The civil penalty for violating any provision of subsection (p) of Section 21 is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that 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) (2006); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 21, 2007, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board