

ILLINOIS POLLUTION CONTROL BOARD
November 5, 2008

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|---------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 09-2 |
| |) | (IEPA No. 85-08-AC) |
| THEODORE & ELIZABETH |) | (Administrative Citation) |
| HOLLEMBEAK and HOLLEMBEAK |) | |
| CONCRETE, INC., |) | |
| |) | |
| Respondents. |) | |

ORDER OF THE BOARD (by A.S. Moore):

This is an administrative citation enforcement action brought by the Illinois Environmental Protection Agency (Agency) against three respondents: Theodore Hollembeak, Elizabeth Hollembeak, and Hollembeak Concrete, Inc. (collectively, respondents). The case concerns a facility located at 403 Pittsfield Road, Mt. Sterling, Brown County and alleges that respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)). In an order dated August 7, 2008, the Board accepted a petition for review as timely filed by Theodore Hollembeak on behalf of respondents on July 21, 2008.

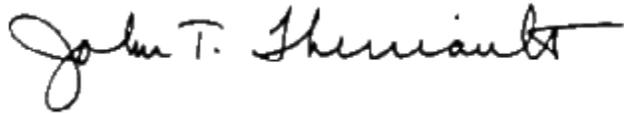
In the same order on August 7, 2008, the Board noted that, although an individual may represent himself or herself, a non-attorney cannot represent another person in a Board adjudicatory proceeding, such as an administrative citation action. *See* 35 Ill. Adm. Code 101.400(a). The Board also noted that any person other than an individual must appear through an attorney-at-law licensed and registered to practice law. *See id.* Because the petition was signed by Theodore Hollembeak and failed to identify Theodore Hollembeak as an attorney, the Board directed Elizabeth Hollembeak and Hollembeak Concrete, Inc. to file an amended petition through an attorney-at-law if either of them wished to contest the citation. Specifically, the Board stated that, “[i]f Elizabeth Hollembeak and Hollembeak Concrete, Inc. fail to file an amended petition in a timely manner, the Board will enter a default order against the remaining respondents. . . .”

Since the Board issued that order, the Agency on September 25, 2008, filed proof that it had timely served the administrative citation on Theodore and Elizabeth Hollembeak on July 10, 2008, and on Hollembeak Concrete, Inc. on July 12, 2008. As noted above, the Board has accepted as timely a petition filed by Theodore Hollembeak on behalf of respondents on July 21, 2008. While the Board directed Elizabeth Hollembeak and Hollembeak Concrete, Inc. to address the issue of attorney representation by filing an amended petition on a timely basis, the Board has not received an amended petition for review from either of the two of them. Accordingly,

the Board now directs Elizabeth Hollembeak and Hollembeak Concrete, Inc. to file any amended petition within 14 days of the date of this order. If Elizabeth Hollembeak and Hollembeak Concrete, Inc. do not file an amended petition(s) accompanied by an attorney's appearance(s) within 14 days of the date of this order, the Board will enter a default order against them but proceed to hearing only as to Theodore Hollembeak. Of course, even if Elizabeth Hollembeak is not an attorney, she may within the 14-day deadline file an amended petition on her own behalf.

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 November 5, 2008, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board