

ILLINOIS POLLUTION CONTROL BOARD  
December 18, 2008

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-22
	)	(IEPA No. 301-08-AC)
BRADLEY & CAROL CORZINE,	)	(Administrative Citation)
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.T. Girard):

On October 24, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Bradley and Carol Corzine (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' Union County property, which consists of 210.53 acres and is legally described as SEC 23, T13, R1W, SW, SW, SE, E 1/2 of the NW. The property is commonly known to the Agency as the "Dongola/Corzine" site and is designated with Site Code No. 1818555005. Today, for the reasons below, the Board accepts for hearing the respondents' amended petition.

The Agency alleges that respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)) on September 18, 2008, by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris at the Union County site. According to the citation, Shelia Williams, a Field Inspector with the Agency, inspected the site on September 18, 2008. The Agency asks the Board to impose on respondents the statutory civil penalty of \$1,500 for each of the two violations, for a total civil penalty of \$3,000.

On November 3, 2008, respondents filed a petition requesting a hearing to dispute the administrative citation. On November 20, 2008, the Board issued an order accepting the petition as timely filed, but finding the petition deficient because it did not provide grounds for contesting the administrative citation. *See* 35 Ill. Adm. Code 108.204(b), 108.206. The Board directed respondents to file an amended petition remedying this deficiency by December 22, 2008, or the Board would dismiss the petition and enter a default order against respondents. *See* 35 Ill. Adm. Code 108.404, 108.500(a).

On December 3, 2008, the Board received an amended petition filed *pro se* and signed by both respondents. Respondents' petition denies the alleged violations, "I am not operating a dump site and I am unable to understand how the inspector made this conclusion. There has never been any trash brought to this area other than my own personal belongings." Petition at 1. *See* 35 Ill. Adm. Code 108.206. Respondents also assert "it was my understanding from this

letter that if the areas in question were cleaned up that I would not receive any fine". The Board notes that voluntary clean up actions performed by a respondent after a site inspection are generally neither a defense to the violations nor relevant to determining the civil penalty amount. *See IEPA v. Jack Wright*, AC 89-227, slip op. at 7 (Aug. 30, 1990) ("The Act, by its terms, does not envision a properly issued administrative citation being dismissed or mitigated because a person is cooperative or voluntarily cleans-up the site").

The Board accepts the amended petitions 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, respondents may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 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](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504. Respondents may withdraw their amended petitions at any time before the Board enters its final decision. If either respondent chooses to withdraw his amended petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondents withdraw their petitions after the hearing starts, the Board will require respondents 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 respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)), the Board will impose civil penalties. Because the Act specifies the civil penalty for a violation in an administrative citation action, the Board cannot consider mitigating or aggravating factors when determining penalty amounts. *See, e.g., IEPA v. Stutsman*, AC 05-70, slip op. at 2 (Sept. 21, 2006). The civil penalty for violating Section 21(p) 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 a 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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 18, 2008, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board

