

ILLINOIS POLLUTION CONTROL BOARD
May 7, 2009

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 09-38
)	(IEPA No. 16-09-AC)
THOMAS, WAYNE, and, VALERIE HILL,)	(Administrative Citation)
)	
Respondents.)	

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

On February 27, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation (AC) against Thomas, Wayne, and Valerie Hill (Hills). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The AC concerns the Hills' parcel of land, located at SEC 31, TWP 12, RNG 1E, PT of SW SE (4.55 acres) & SEC 6, TWP 13, RNG 1E, NW NE PT NE corner north of one half of the NW (6.09 acres) in Union County. For the reasons below, the Board finds that the Hills violated the Illinois Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders them to pay \$1,500.00 in civil penalties.

Under the Act, an AC is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that respondents violated Sections 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter. The Agency asks the Board to impose a \$1,500.00 civil penalty on Hills. As required, the Agency served the AC on respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b).

To contest an AC, a respondent must file a petition with the Board no later than 35 days after being served with the AC. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due on April 11, 2009. Respondents failed to timely file a petition. Accordingly, the Board finds that the Hills violated Section 21(p)(1) of the Act.

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) (2006); 35 Ill. Adm. Code 108.500(a).

Because there is one violation of Section 21(p) and this violation is a first offense, the total civil penalty is \$1,500.00. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's finding of fact and conclusions of law.

ORDER

1. The Hills must pay a civil penalty of \$1,500.00 no later than June 8, 2009, which is the first business day after the 30th day after the date of this order.
2. The Hills must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the Hills' social security number or federal employer identification number must be included on the certified check or money order.
3. The Hills must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 7, 2009, by a vote of 5-0.

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

John Therriault, Assistant Clerk
Illinois Pollution Control Board