

ILLINOIS POLLUTION CONTROL BOARD

June 4, 2009

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 09-40  
 ) (IEPA No. 51-09-AC)  
THOMAS AND VALERIE HILL, ) (Administrative Citation)  
 )  
Respondents. )

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

On April 16, 2009, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Thomas and Valerie Hill (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' property located at Lot 18 Agnus Ussery Addition, in Anna, Union County. The property is commonly known to the Agency as "Anna/Hill (Ussery St.)" and is designated with Site Code No. 18180055092. For the reasons below, the Board accepts respondent Thomas Hill's petition to contest the administrative citation as timely filed, but directs respondents to file an amended petition to cure the deficiencies listed herein.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), an administrative citation 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 on March 4, 2009, respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)) at their property by causing or allowing the open dumping of waste in a manner resulting in litter, and in a manner resulting in the deposition of general or clean construction or demolition debris. The Agency asks the Board to impose a \$1,500.00 civil penalty on the respondents for each violation, for a total penalty of \$3,000.

As required, the Agency served the administrative citation on Thomas and Valerie Hill 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). Any petition to contest the administrative citation is due by June 8, 2009. On May 22, 2009, Thomas Hill filed a petition with the Board to contest the administrative citation (Pet.). 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Mr. Hill denies the allegations, stating that the vehicles on his site are not waste (Pet. 2-3), and that a road closure

has prevented him from accessing the bottom of his property to remove the items that are waste. Pet. at 1-2. *See* 35 Ill. Adm. Code 108.206.

The Board finds that the petition contains several deficiencies that must be remedied before the case can be accepted for hearing. With respect to respondent Valerie Hill, though 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 petition was brought on behalf of and signed by Thomas Hill. Pet. at 5. The petition fails to identify Thomas Hill as an attorney. If Valerie Hill would like to contest the administrative citation, she must do so by filing an amended petition on her own behalf. In addition, Mr. Hill's petition contains other deficiencies which must be remedied before the Board can accept this case for hearing. Mr. Hill must serve a copy of the petition upon the Agency and file proof of service with the Board. *See* 35 Ill. Adm. Code 101.304. There is no indication that Mr. Hill served a copy of the petition upon the Agency. Further, the petition refers to both Lot 17 and Lot 18 of respondents' property. *See* Pet. at 1-2. Clarification is needed as to whether Mr. Hill's petition indeed contests the Agency's determination with respect to the subject property, Lot 18. *See* AC at 1.

The Board therefore directs respondents to file an amended petition for review addressing all of these deficiencies. *See, e.g.* IEPA v. Ray Logsdon Estate, AC 05-54 (Mar. 3, 2005) (accepting as timely filed a petition that did not indicate whether it was filed by an attorney but requiring an amended petition to cure the deficiency). If respondents fail to file an amended petition by July 6, 2008, the Board will enter a default order against the respondents, imposing the \$3,000.00 penalty. *See* Ray Logsdon Estate, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing an amended petition as directed to cure the deficiency in the original petition).

If respondents proceed to contest the administrative citation but do not prevail on the merits of the case, respondents will have to pay not only the \$3,000.00 penalty but also any hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500 (2006). A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 4, 2009, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board