

ILLINOIS POLLUTION CONTROL BOARD  
June 18, 2009

COUNTY OF JACKSON, )  
)  
Complainant, )  
)  
v. ) AC 09-09  
) (Site Code: 0778035022)  
ALVIN VALDEZ AND RUBEN J. ) (Administrative Citation)  
VALDEZ, )  
)  
Respondents. )

DANIEL W. BRENNER, ASSISTANT STATE'S ATTORNEY, APPEARED ON BEHALF OF COMPLAINANT; and

ALVIN VALDEZ AND RUBIN J. VALDEZ APPEARED *PRO SE*.

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

In an interim opinion and order on April 16, 2009, the Board found that the respondents, Alvin and Rueben Valdez, allowed the open dumping of waste in a manner resulting in litter, and in the deposition of construction or demolition debris in violation of Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2006)) at a site located in Jackson County. Having found that the respondents committed these violations, the Board assessed the statutory civil penalty of \$ 3,000 and hearing costs. The Board directed the County of Jackson (County) and the Clerk of the Board to file documentation of their hearing costs and provided the respondents an opportunity to respond to those filings.

On April 29, 2009, the Clerk of the Board submitted an affidavit of hearing costs totaling \$161.08. The respondents have not responded to this statement of costs. *See* 35 Ill. Adm. Code 108.506(a) (setting 21-day deadline for response).

The Board finds the hearing costs of the Board are reasonable and orders the respondents to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2006). The Board incorporates by reference the findings of fact and conclusions of law from its April 2, 2009 interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order.

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

**ORDER**

1. The Board finds that the respondents, Alvin and Rueben Valdez, violated Sections 21(p)(1) and (7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and

(7) (2006)) at property located in Jackson County.

2. The Board assesses the civil penalty of \$3,000 for the violations, as well as hearing costs totaling \$161.08 for a total amount of \$3,161.08. The respondents must pay \$3,161.08 no later than August 3, 2009, which is the first business day after the 45th day from the date of this order. The respondents must pay this amount by certified check or money order, made payable to the Environmental Protection Trust Fund. The case number, case name, and the respondents' social security numbers or federal employer identification numbers must be included on the certified check or money order.
3. The respondents must send the certified check or money order to:
 

Illinois Environmental Protection Agency  
Fiscal Services  
1020 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 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) (2006)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 18, 2009, by a vote of 5-0.




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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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 v. )  
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 Respondents. )

ORIGINAL

AC 09 - 9

**RECEIVED**  
CLERK'S OFFICE  
JUL 31 2008  
STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

To: Alvin Valdez, 211 N. Walnut, P.O. Box 162, DeSoto, Illinois 62924  
and Ruben J. Valdez, 211 N. Walnut, P.O. Box 162, DeSoto, Illinois 62924

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.



Daniel Brenner  
Assistant State's Attorney  
Jackson County Courthouse, 3<sup>rd</sup> Floor  
Murphysboro, IL 62966  
618-687-7200

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Site 0778035022

**RECEIVED**  
 CLERK'S OFFICE  
 JUL 31 2008  
 STATE OF ILLINOIS  
 Pollution Control Board

AC 09 -

ORIGINAL

Serve on: Ruben J. Valdez, 211 N. Walnut, P.O. Box 162, DeSoto, Illinois 62924

PROOF OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Administrative

Citation and Appearance were hand delivered to:

Name: Ruben J. Valdez

Address: 211 N Walnut St DeSoto

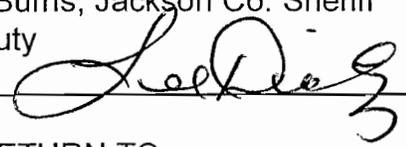
Sex: Male X Female \_\_\_\_\_

Age: 5/26/58

Date of service: 07/28, 2008.

Time: 10:32 .m.

\_\_\_\_\_  
 /S/ Robert Burns, Jackson Co. Sheriff  
 By his Deputy



PLEASE RETURN TO:

DANIEL BRENNER  
 JACKSON COUNTY STATE'S ATTORNEY'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

**RECEIVED**  
CLERK'S OFFICE

JUL 31 2008

STATE OF ILLINOIS  
Pollution Control Board

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ORIGINAL

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2006), specifically 415 ILCS 5/31.1.

**FACTS**

1. The Respondent, Alvin Valdez, is the present owner and occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.
2. The Respondent, Ruben J. Valdez, upon information and belief, is Alvin Valdez's father and is in control and possession and an occupant of a facility located in the County of Jackson, Illinois.
3. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 0778035022. The facility is known to the Agency as the DeSoto/Alvin Valdez site.
4. The Respondents have owned, occupied, controlled and/or operated the facility at all relevant times hereto.

5. On June 25, 2008, Don Terry, Field Inspector, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's affidavit, are attached and incorporated herein by reference as Exhibit A.

### **VIOLATIONS**

On the basis of Field Inspector, Don Terry's, direct observation, he has determined that the Respondents have caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on June 25, 2008, an on-site inspection of the facility disclosed the following:

1. The Respondents have caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

2. The Respondents have caused or allowed the deposition of general construction or demolition; or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

### **CIVIL PENALTY**

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 1, 2008, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs

incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the Fifteen Hundred Dollars (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

Respondents shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Complainant may either initiate proceedings against

Respondents in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

### **PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION**

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor, Murphysboro, Il 62966. **YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. IF YOU FAIL TO FILE YOUR PETITION, A DEFAULT ORDER AGAINST YOU WILL BE ENTERED BY THE POLLUTION CONTROL BOARD.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk  
Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney  
Daniel Brenner  
Assistant State's Attorney  
Jackson County Courthouse, 3<sup>rd</sup> Floor  
Murphysboro, Il 62966

DATED: July 15, 2008

  
Daniel Brenner  
Assistant State's Attorney



