

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1995

WILL COUNTY,)
)
 Complainant,)
)
 v.) AC 95-40
) (County No. 95 AC 04)
 TIM VAN BAREN d/b/a) (Administrative Citation)
 PLUM VALLEY NURSEY,)
)
 Respondent.)

ORDER OF THE BOARD:

This matter comes before the Board upon the June 9, 1995 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Will County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon Tim Van Baren d/b/a Plum Valley Nursey on June 5, 1995. Will County alleges that on May 31, 1995, Tim Van Baren d/b/a Plum Valley Nursey, present owner and/or operator of a facility located in Will County and commonly known to the County as Plum Valley Nursey, violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

Tim Van Baren d/b/a Plum Valley Nursey has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Tim Van Baren d/b/a Plum Valley Nursey has violated the provision alleged in the Administrative Citation. Since there is (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Tim Van Baren d/b/a Plum Valley Nursey shall, by certified check or money Order payable to the Will County Treasurer, pay a penalty in the amount of \$500.00, which is to be sent to:

The Will County Land Use Department
Solid Waste Division
Attn: Frank Kalisik, Waste Services Analyst
501 Ella Avenue
Joliet, Illinois 60433

2. Respondent shall include the remittance form and write the case name and number and his social security or federal Employer Identification Number on the certified check or money

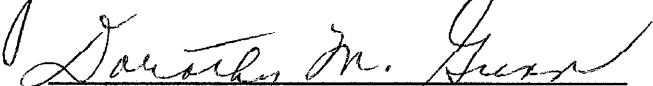
order.

- 3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
- 4. Payment of this penalty does not prevent future prosecution if the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of July, 1995, by a vote of 6-0.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

RECEIVED
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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS

COUNTY OF WILL

ADMINISTRATIVE CITATION

COUNTY OF WILL)
Complainant,)
) AC 95-40
v.)
)
TIM VAN BAREN, d/b/a PLUM VALLEY) WC 95 AC 4
NURSERY)
Respondent.)
)
)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1031.1, and delegated to Will County pursuant to Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1004 (r).

FACTS

1. That Respondent, Tim Van Baren, is the present owner and/or operator of a facility located in the County of Will, State of Illinois.

2. That said site is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with Site Code No. 1970300015. Said facility is commonly known to the Agency as PLUM VALLEY NURSERY.

3. That Respondent has owned and/or operated said facility at all times pertinent hereto. The site owned by respondents is known by Will County Property Index Number (P.I.N.) 15-23-100-004.

4. That on May 31, 1995, Frank Kalisik of the County of Will, inspected the above-described open dump site. A copy of the Inspection Report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

On the basis of direct observation of Frank Kalisik, the County of Will has determined that Respondent has caused or allowed open dumping at the above described facility in a manner which resulted in the following occurrences:

A. That on May 31, 1995, an on-site inspection of said facility disclosed the following:

- Causing or allowing litter (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(1) [formerly 1021(q)(1)]).
- Causing or allowing scavenging operations (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(2) [formerly 1021(q)(2)]).
- Causing or allowing open burning (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(3) [formerly 1021(q)(3)]).
- Causing or allowing the deposition of waste in standing or flowing waters (Ill. Rev. Stat.

cn. 111 1/2, par 1021(p)(4) [formerly 1021(q)(4)].

— Causing or allowing proliferation of disease vectors (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(5) [formerly 1021(q)(5)]).

— Causing or allowing the generation of standing or flowing liquid discharge from the open dump site (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(6) [formerly 1021(q)(6)]).

CIVIL PENALTY

Pursuant to Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1042(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph one, for a total of \$500.00. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violation alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the County of Will and the Illinois Pollution Control Board Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violation cited hereinabove, the civil penalty specified above shall be due and payable no later than July 10, 1995. If you do not petition the

Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, your check should be made payable to The County of Will and mailed to: The Will County Land Use Department, Solid Waste Division, Attention: Frank Kalisik, Waste Services Analyst, 501 Ella Avenue, Joliet, Illinois 60433. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received. If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing is not paid when due, the Office of the State's Attorney of Will County shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of the County of Will, and Illinois Pollution Control Board, if any, the State's Attorney's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See, Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1031.1. If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Will County State's Attorney, Attention: Cynthia Campbell at 14 West Jefferson Street, Room 200, Joliet, Illinois 60431. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. The Petition for Review may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the Will County State's Attorney, Attention: Cynthia Campbell, 14 West Jefferson Street, Room 200, Joliet, Illinois 60431.

James W. Glasgow
State's Attorney
Will County, Illinois

By: Cynthia S. Campbell
CYNTHIA S. CAMPBELL
Assistant State's Attorney

Date: June 5, 1995

REMITTANCE FORM

PEOPLE OF THE COUNTY OF WILL)	
Complainant,)	AC 95-40
v.)	
TIM VAN BAREN, d/b/a PLUM VALLEY NURSERY)	WC 95 AC 4
Respondent.)	

FACILITY: PLUM VALLEY NURSERY SITE CODE NO.: 1970300015

COUNTY: WILL CIVIL PENALTY: \$500.00

DATE OF INSPECTION: MAY 31, 1995

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to the Will County Land Use Department, Waste Services Division, Attention: Frank Kalisik, Waste Services Analyst, 501 Ella Avenue, Joliet, Illinois 60433.