

ILLINOIS POLLUTION CONTROL BOARD  
April 17, 2008

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 08-18
	)	(IEPA No. 24-08-AC)
CAROL G. PRIEB and MARGARET	)	(Administrative Citation)
DILLAVOU,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by N.J. Melas):

On February 29, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Carol G. Prieb and Margaret Dillavou (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a property located at latitude 37.37060 and longitude -89.28876 in Union County. The property is commonly known to the Agency as “Mill Creek/Prieb-Dillavou” and is designated with Site Code No. 1818580001. For the reasons below, the Board accepts respondents’ petition to contest the administrative citation.

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 January 10, 2008, respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) at the property by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris. The Agency asks the Board to impose a \$4,500 civil penalty on respondents.

As required, the Agency served the administrative citation 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). Any petition to contest the administrative citation was due by April 2, 2008. Respondents timely filed a petition with the Board. The Board received the petition on April 4, 2008, after the filing deadline, but under the “mailbox rule” (35 Ill. Adm. Code 101.300(b)(2)), the petition is considered filed on its postmark date of April 2, 2008. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Respondents 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. Respondents' petition denies the alleged violations, denies that "environmental damage has been done as defined in the Act," and denies that activities at the property are encompassed by the Act. Petition at 1. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

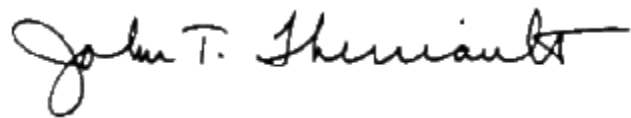
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, respondents may have to pay the 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 petition to contest the administrative citation at any time before the Board enters its final decision. If respondents choose to withdraw their petition, they must do so in writing, unless they do so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondents withdraw their petition 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), (p)(3), or (p)(7) of the Act, the Board will impose civil penalties on respondents. The civil penalty for violating any provision of subsection (p) of Section 21 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 respondents have "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 April 17, 2008, by a vote of 4-0.



---

John Therriault, Assistant Clerk  
Illinois Pollution Control Board