

ILLINOIS POLLUTION CONTROL BOARD
November 20, 2008

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) AC 09-22
) (IEPA No. 301-08-AC)
BRADLEY & CAROL CORZINE,) (Administrative Citation)
)
Respondents.)

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

On October 24, 2008, the Illinois Environmental Protection Agency (IEPA) timely filed an administrative citation against Bradley and Carol Corzine (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' Union County property, which consists of 210.53 acres and is legally described as SEC 23, T13, R1W, SW, SW, SE, E 1/2 of the NW. The property is commonly known to the Agency as the "Dongola/Corzine" site and is designated with Site Code No. 1818555005. For the reasons below, the Board accepts respondents' petition as timely filed but requires respondents to file an amended petition to cure deficiencies noted in this order.

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 respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)) on September 18, 2008, by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris at the Union County site. The Agency asks the Board to impose on respondents the statutory civil penalty of \$1,500 for each of the two violations, for a total civil penalty of \$3,000.

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 December 1, 2008. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(a), (b), 108.204(b). On November 3, 2008, respondents filed a petition. The Board accepts respondents' petition as timely filed.

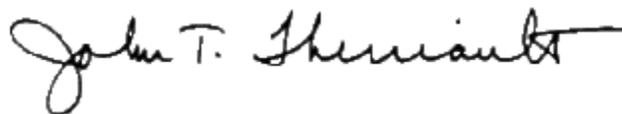
The Board finds, however, that the petition reflects deficiencies that must be remedied before this case can go forward. First, a petition must set forth the reasons why respondents believe the citation was improperly issued. *See* 35 Ill. Adm. Code 108.206. The petition provides no grounds for contesting the administrative citation, other than stating that “this has already been cleaned up.” Petition at 1. The Board notes that voluntary cleanups performed by a respondent after an Agency site inspection are generally neither a defense to the violations nor relevant to determining the civil penalty amount. *See IEPA v. Jack Wright*, AC 89-227, slip op. at 7 (Aug. 30, 1990) (“The Act, by its terms, does not envision a properly issued administrative citation being dismissed or mitigated because a person is cooperative or voluntarily cleans-up the site”). Second, 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). Respondents’ petition is signed by Bradley Corzine, but not by Carol Corzine. The petition fails to identify Bradley Corzine as an attorney. If Bradley Corzine is not an attorney, he cannot represent Carol Corzine.

The Board therefore directs that respondents, either themselves or through an attorney, file an amended petition stating the grounds on which they contest the administrative citation. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency); *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 December 22, 2008, which is the first business day following the 30th day after the date of this order, respondents’ petition will be dismissed and a default order will be entered against them, imposing the \$3,000 civil penalty. *See Ray Logsdon Estate*, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing amended petition as directed to cure deficiency in original petition).

If respondents file an amended petition pursuant to this order and do not prevail on the merits of the case, respondents will have to pay not only the civil 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. 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. *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 November 20, 2008, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board