

ILLINOIS POLLUTION CONTROL BOARD  
January 22, 2009

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	
	)	AC 09-28
THEODORE AND SALLY JACKSON,	)	(IEPA No. 322-08-AC)
	)	(Administrative Citation)
Respondents.	)	
	)	

ORDER OF THE BOARD (by G.L. Blakenship):

On December 12, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Theodore and Sally Jackson. *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the Jacksons' property located 1203 S. 10th Street, Havana, Mason County. The property is commonly known to the Illinois Environmental Protection Agency as Havana/Jackson 2. For the reasons below, the Board accepts the Jacksons' 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 Illinois Environmental Protection 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 Theodore and Sally Jackson violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)) by allowing the open dumping of waste in a manner resulting in litter, and allowing the open dumping of waste in a manner resulting in the deposition of general or clean construction or demolition debris at the Jacksons' Mason County site. The Agency asks the Board to impose a \$3,000.00 civil penalty on Theodore and Sally Jackson.

As required, the Agency served the administrative citation on Theodore and Sally Jackson 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 January 14, 2008. On January 14, 2008, the Jacksons timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b). Mr. and Mrs. Jackson proffer that some or all of the alleged violations occurred as a result of uncontrollable circumstances. *See* 35 Ill. Adm. Code 108.206(d).

The Board accepts the petition and 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, Theodore and Sally Jackson may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4) (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.

Theodore and Sally Jackson may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the Jacksons 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 the Jacksons withdraw their petition after the hearing starts, the Board will require them 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 Theodore and Sally Jackson violated Sections 21(p)(1) and 21(p)(7), the Board will impose civil penalties on them. 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) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Mr. and Mrs. Jackson "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 January 22, 2009, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board