

ILLINOIS POLLUTION CONTROL BOARD

February 19, 2009

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 09-24
)	(IEPA No. 317-08-AC)
QUINN AND GLENNA HUNLEY,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by T.E. Johnson):

On November 24, 2008, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Quinn and Glenna Hunley (respondents Hunley). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns the Hunleys' residential property (facility) located at 2136 North Illinois Route 130, West Salem, Edwards County. The property is known to the Agency as West Salem/Hunley, Quinn and Glenna, and has been designated by the Agency as Site #0478570005. For the reasons below, the Board accepts the Hunleys' amended 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 it 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 Quinn and Glenna Hunley violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2006)) by causing or allowing the open dumping of waste in a manner resulting in litter at their Edwards County facility. The Agency asks the Board to impose a \$1,500.00 civil penalty on respondents Hunley.

As required, the Agency served the administrative citation on Quinn and Glenna Hunley 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 26, 2008. On December 22, 2008, respondents Hunley 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). On January 8, 2009, the Board accepted the respondents' petition for review, but directed them to file an amended petition by February 9, 2009, expressly stating the reasons why the administrative citation was improperly issued. IEPA v. Hunley, AC 09-24, slip

op. at 1 (Jan. 8, 2009). On February 10, 2009, respondents filed an amended petition for review alleging that they did not cause or allow the open dumping of waste as they are in the process of selling the items at the facility, thereby removing said items from the statutory definition of "waste." *See* 35 Ill. Adm. Code 108.206. The amended petition for review was timely filed because it was postmarked on or before the filing deadline. *See* 35 Ill. Adm. Code 101.300(b)(2)

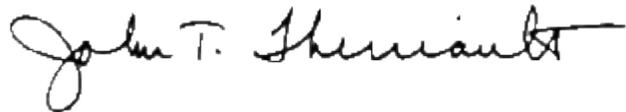
The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, Quinn and Glenna Hunley may have to pay the hearing costs of the Board and the Agency. *See* 415 ILCS 5/42(b)(4), (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.

Respondents Hunley may withdraw their petition to contest the administrative citation at any time before the Board enters its final decision. If the Hunleys chooses 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 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 Quinn and Glenna Hunley violated Section 21(p)(1) of the Act, 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), (4-5) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that respondents Hunley "ha[ve] 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 February 19, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board