ILLINOIS POLLUTION CONTROL BOARD
April 16, 2009

COUNTY OF JACKSON,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-09
	)	(Site Code: 0778035022)
ALVIN VALDEZ AND RUBEN J. VALDEZ,	)	(Administrative Citation)
	)	
	)	
Respondents.	)	

DANIEL W. BRENNER, ASSISTANT STATE'S ATTORNEY, APPEARED ON BEHALF OF COMPLAINANT; and

ALVIN VALDEZ AND RUBIN J. VALDEZ APPEARED *PRO SE*.

INTERIM OPINION AND ORDER OF THE BOARD (by A.S. Moore):

Today the Board finds that Alvin Valdez and Rubin J. Valdez (collectively, respondents) violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (7) (2006)) at a site in Jackson County. The respondents violated the Act by causing or allowing the open dumping of waste in a manner resulting in litter, and in the deposition of construction or demolition debris. The County of Jackson (County or complainant) alleged that it had observed these violations on the property on June 25, 2008. The County timely filed the administrative citation on July 31, 2008. The respondents filed a petition for review on August 27, 2008, and an amended petiton on October 17, 2008. As described below, the respondents are subject to a statutorily mandated $3,000 civil penalty, and must pay the hearing costs of the County and the Board.

After finding the violations in this interim opinion and order, the Board directs the County and the Clerk of the Board to provide hearing cost documentation, to which the respondents may respond. After the time periods for these hearing cost filings expire, the Board will issue a final opinion and order assessing the civil penalty and any appropriate hearing costs.

First, the Board sets forth the procedural history and the facts of this case. Next, the Board provides the legal framework for administrative citations and the statutory background concerning this citation. The Board then discusses the Agency's alleged violations and the respondents' claimed defenses before the Board renders its legal conclusions.

PROCEDURAL HISTORY

On July 31, 2008, the County filed with the Board the administrative citation (AC) against the respondents. The County served the AC on respondent Ruben J. Valdez on July 28,

2008, and on respondent Alvin Valdez on August 7, 2008. According to the AC, this matter is based on an inspection which the county conducted at the respondents' property on June 25, 2008. Therefore, the County served the AC on respondents within "60 days after the date of the observed violation," as required by the Act. 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). On August 27, 2008, the respondents filed a petition (Pet.) with the Board to contest the AC. Because the date of the petition was within the 35-day appeal period, the petition was timely filed. *See* 35 Ill. Adm. Code 101.300(b)(2). The Board accepted the respondents' petition as timely, but directed the respondents to file an amended petition[1]. The respondents filed an amended petition (Am. Pet.) on October 17, 2008.

The hearing took place before Hearing Officer Carol Webb on December 4, 2008, at the Jackson County Courthouse in Murphysboro. (Tr.) Assistant State's Attorney Daniel Brenner appeared on behalf of the complainant. The respondents appeared *pro se*. Two witnesses testified: Don Terry, an environmental compliance inspector for the Jackson County Health Department, and Ruben Valdez, one of the respondents. Hearing Officer Carol Webb found both witnesses credible, based on her legal judgment and experience. Tr. at 29. The complaintant offered two exhibits. Exhibit 1 consisted of the open dump inspection site sketch and photos dated June 25, 2008. Exhibit 2 consisted of the inspector's affidavit and open dump inspection checklist dated June 25, 2008. Both exhibits were admitted into the record.

The complainant filed its post-hearing brief (Pet. Br.) with the Board on January 9, 2009. On March 2, 2009, the respondents filed an answer to the brief (Resp. Br.). Because the respondents' brief was postmarked by the due date of February 27, 2009, the Board accepts the respondents' brief as timely. 35 Ill. Adm. Code 101.300(b)(2).

FACTS

On June 25, 2008, Don Terry, an environmental compliance inspector for the Jackson County Health Department, inspected property in Jackson County which was owned by Mr. Alvin Valdez and is identified as Site Code No. 0778035022. Tr. at 8-10; Exh. 2, Site Narrative at 1.

The inspection on June 25, 2008, from which this matter arises, was the most recent of several inspections concerning abandoned vehicles and other waste materials on the respondents' property. Exh. 2, Narrative at 1; *see also* County of Jackson v. Valdez, AC 07-34 (Jan. 31, 2007). The first documented meeting between the Jackson County Health Department and the respondents took place on January 31, 2006, when inspectors Bart Hagston and Don Terry spoke with Ruben Valdez about how to bring the site into compliance. *Id*. During this meeting, Ruben Valdez stated that he was not operating any type of automobile salvage business, and that the

[1] In the respondents' petition, Alvin Valdez stated that he planned to construct a building to store the vehicles. Pet. at 1-2. However, voluntary clean up action following a properly alleged violation is not a defense. *See* IEPA v. Jack Wright, AC 89-227, slip op. at 7 (Aug. 30, 1990). Accordingly, the Board accepted the respondents' petition as timely, but directed the respondents to file an amended petition. County of Jackson v. Valdez, PCB 09-09, slip op. at 1-2 (Sept. 16, 2008).

vehicles were for personal use. *Id.* Subsequent inspections took place on July 10, 2006, and January 9, 2007. *Id*. Terry told Ruben Valdez that, in order to avoid a violation, it was necessary to maintain the vehicles and parts "in such a way so as to prevent weathering and exposure to the elements." Tr. at 15.

The inspection on January 9, 2007 resulted in an administrative citation, which the County filed with the Board on January 31, 2007. *See* County of Jackson v. Valdez, PCB 07-34. On July 23, 2007, the County moved to withdraw and dismiss that citation, stating it was satisfied that the respondents had brought the site into compliance. County of Jackson v. Valdez, PCB 07-34 (July 23, 2007). The Board granted the County's request and dismissed the case on July 26, 2007. County of Jackson v. Valdez, PCB 07-34, slip op. at 1 (July 26, 2007).

On June 25, 2008, Terry re-inspected the site. Tr. at 8-10; Exh. 2, Site Narrative at 1. He saw some debris from the public road. Tr. at 14, 17-18. Upon his arrival, Terry shouted loudly to announce his presence. Exh. 2, Site Narrative at 1. When nobody answered, he began the inspection of the property. *Id.* Terry observed an estimated thirty to forty vehicles that he believed to be abandoned. Tr. at 9-10; Exh. 1, photos 1-8; Exh. 2, Site Narrative at 1. Terry noted that vegation had grown around the vehicles, several vehicles had waste material inside of them, and none of the vehicles had current Illinois license plates. Tr. at 12; Exh. 2. Site Narrative at 1. Terry also observed that some of the vehicles had broken windows, which caused the interiors to be exposed to weathering. *Id*. None of the vehicles appeared to be usable. Tr. at 12; Exh. 2, Site Narrative at 1. The materials found at the site included scrap metal, construction demolition material, and other debris. Tr. at 11-12, Exh. 2, Site Narrative at 1-2. Terry further inspected the site, and found other materials, including more abandoned vehicles, dimensional lumber, scrap metal, plastic and a motor boat. Exh. 1, photos 9-22; Exh. 2, Site Narrative at 2. The County filed this AC, resulting from the June 2008 inspection, on July 31, 2008.

The respondents contended that because they planned to use the materials at the site for future purposes, they were effectively recycling the materials, and the materials could not be defined as "waste." Amd. Pet. at 1, Resp. Br. at 2-3. The respondents claim that the County's issuance of the AC after it had moved to dismiss a previous one in 2007 was akin to trying the respondents twice for the same offense (Tr. at 20-23, Resp. Br. at 2), and that the County's June 25, 2008, inspection was an invasion of privacy (Tr. at 16-18, Resp. Br. at 2). Finally, the respondents contended that while they had covered the materials with tarp, uncontrollable circumstances had caused the tarps to come undone prior to the County's inspection on June 25, 2008. Tr. at 20.

ADMINISTRATIVE CITATION PROCESS

Under the 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.

The Agency or delegated local authority must serve the administrative citation on the respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006)); *see also* 35 Ill. Adm. Code 108.202(b). The Agency or delegated local authority also must file a copy of the administrative citation with the Board no later than ten days after serving the respondent. *See* 415 ILCS 5/31.1(c) (2006).

To contest the administrative citation, the respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2006); 35 Ill. Adm. Code 108.204(b), 108.406.

If the respondent timely contests the administrative citation, but the complainant proves the alleged violations at hearing, the respondent will be held liable not only for the civil penalty but also for the hearing costs of the Board and the complainant. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500. However, if the Board finds that the respondent "has 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).

STATUTORY BACKGROUND

Section 3.160 of the Act defines "general construction or demolition debris" as:

> non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and piping or metals incidental to any of those materials.
>
> General construction or demolition debris does not include uncontaminated soil generated during construction, remodeling, repair, and demolition of utilities, structures, and roads provided the uncontaminated soil is not commingled with any general construction or demolition debris or other waste.
>
> * * *

415 ILCS 5/3.160(a) (2006).

Section 3.305 of the Act defines "open dumping" as "the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a landfill." 415 ILCS 5/3.305 (2006).

Section 3.385 of the Act defines "refuse" as "waste." 415 ILCS 5/3.385 (2006).

Section 3.535 of the Act defines "waste" as:

> any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.135, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. 415 ILCS 5/3.535 (2006).

Section 21(p) of the Act provides that no person shall, "in violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

> (1) litter
>
> * * *
>
> (7) deposition of:
>
> (i) general constuction or demolition debris as defined in Section 3.160(a) of this Act; or
>
> (ii) clean construction or demolition debris as defined in Section 3.160(b) of this Act." 415 ILCS 5/21 (p) (2006).

Section 21(a) of the Act, which is referred to in Section 21(p), provides that "[n]o person shall [c]ause or allow the open dumping of any waste." 415 ILCS 5/21(a) (2006).

Section 4(d) and of the Act provides that:

> In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of:
>
> (1) Inspecting and investigating to ascertain possible violations of this Act. . . . 415 ILCS 5/4(d) (2006).

Section 31.1(d)(2) of the Act provides that "[i]f the Board finds that the person appealing the [administrative] citation has 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).

Section 42(b)(4-5) of the Act provides that "[i]n an administrative citation under Section 31.1 of this Act, any person found to have violated any provision of subsection (p) of Section 21 of this Act shall pay a civil penalty of $1,500 for each violation of each such provision, plus any hearing costs incurred by the Board and the Agency. . . ." 415 ILCS 5/42(b)(4-5) (2006).

DISCUSSION

The County issued the AC to the respondents, alleging two open dumping violations. The respondents petitioned to contest the administrative citation and the Board held a hearing. Below, the Board discusses the alleged violations and the respondents' claimed defenses before rendering the Board's legal conclusion on whether the respondents violated the Act. The Board then discusses the applicable civil penalties and hearing costs.

Alleged Violations

The County alleges that that the respondents violated Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p) and (7) (2006)) by causing or allowing the dumping of open waste resulting in: (1) litter and (2) deposition of construction or demolition debris. The County served the AC on the 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). 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). Because the County alleges two violations, it requests that the respondents be fined $3,000.

Respondents' Claimed Defenses

In summary, the respondents' purported defenses to the alleged violations are that (1) the abandoned vehicles at the site did not constitute discarded waste under the Act because the respondents intended to use them for spare parts, (2) the Board cannot find a violation in this matter because the County dismissed a previous AC that arose from an earlier inspection, (3) the June 25, 2008 inspection was an unreasonable search which invaded the respondents' privacy, and (4) strong winds at the site qualified as uncontrollable circumstances, which prevented the respondents from covering up the abandoned vehicles and other materials, and bringing the site into compliance.

Additionally, the respondents noted on several occasions after the June 25, 2008, inspection that they were attempting to remedy the problem. *See* Pet. at 1; Am. Pet. at 2-3; Tr. at 20, Resp. Br. at 1, 3. Because the Board has already held that the respondents' subsequent efforts to clean up the site could not form a legal defense to the County's allegations (*see* note 1, *supra*), the Board does not discuss that additional issue here.

ISSUES AND ANALYSIS

The Board discusses the elements of a violation of Sections 21(p)(1) and (p)(7) below, and the civil penalties for violating those sections. The Board also discusses the respondents' defenses below.

Open Dumping of Waste

As a threshold matter, to prove a violation of Section 21(p)(1) and (p)(7), the County must first prove a violation of Section 21(a) of the Act (415 ILCS 5/21(a) (2006)). Section 21(a) provides that "[n]o person shall: Cause or allow the open dumping of any waste." 415 ILCS 5/21(a) (2006). "Open dumping" is defined as "the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill." 415 ILCS 5/3.305 (2006). "Refuse" is defined as "waste." 415 ILCS 5/3.385 (2006). "Waste" includes "garbage. . . .or other discarded material." 415 ILCS 5/3.535 (2006).

The Board finds that the open dumping of waste occured at the respondents' property. The respondents argue that they had not discarded the materials at the site because they planned to use the vehicles for parts, and that therefore, the materials were not waste. Amd. Pet. at 1, Resp. Br. at 2-3. However, the Board finds that the respondents' intended future uses of the materials are not dispositive of whether the materials were waste or litter. *See* County of Sangamon v. Daily, AC 01-16, 01-17 (cons.), slip op. at 10, 12-13 (Jan. 10, 2002) (despite expressed "intention to use every single discarded item . . . numerous items were not in use, were not useable in their current condition, and were not stored in such a way as to protect any future use"), *aff'd. sub nom*. Everett Daily v. County of Sangamon, No. 4-02-0139 (4th Dist. Sept. 18, 2003) (unpublished order under Illinois Supreme Court Rule 23).

The Board finds that the deteriorated vehicles and variety of other materials at the site were discarded, and therefore are considered waste. In this case, Terry's testimony, the site narrative, and the photos taken during the June 25, 2008 inspection show that the materials were discarded. Specifically, the photos indicate that vegatation was growing all around the vehicles, other waste materials were abundant at the site, the interiors of several of the vehicles had become wheathered due to broken windows, and the vehicles had not been in use for a considerable amount of time. Exh. 1, photos 1-22; Exh. 2, narrative at 1-2; Tr. at 12.

The Board finds that under these circumstances, the materials were "discarded" and therefore constitute "waste" under the Act. Also, it is undisputed that the respondents' site does not meet the requirements for a sanitary landfill. Therefore, the Board finds that in bringing the materials to this property and depositing them there, the respondents "open dumped" the waste.

Cause or Allow

To establish that respondents caused or allowed open dumping complainant may merely establish the "[p]resent inaction on the part of the landowner to remedy the disposal of waste that was previously placed on the site. . . ." IEPA v. Rawe, AC 92-05, slip op. at 6 (Oct. 16, 1992). Here, the respondents do not dispute that Alvin Valdez is the owner of the property and the respondents are the operators of the site. Also, the respondents do not dispute that they are responsible for bringing the vehicles and other materials to the site. Exh. 2, narrative at 1; Pet. at

1; Amd. Pet. at 1-2. Accordingly, the Board finds that the respondents excercised control of the site and have caused or allowed the open dumping of waste, which the County observed there on June 25, 2008.

Litter

The Board has adopted the definition of "litter" provided in the Litter Control Act for purposes of Section 21 of the Act. *See* St. Clair County v. Mund, AC 90-64, slip op. at 4, 6 (Aug. 22, 1991). The Litter Control Act defines "litter" as:

> any discarded, used or unconsumed substance or waste [and] may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings, or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers . . . or anything else of any unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly. 415 ILCS 105/3(a) (2006).

Consistent with the discussion above, the Board finds that the vehicles, scrap metal and other discarded materials on the respondents' property fall within the definition of "litter." Thus, the Board finds that this open dumping of waste resulted in litter.

Prior AC

The respondents attempt to defend against the allegations by stating that the action was previously dismissed by the Board. Specifically, the respondents argue that the Board should not be allowed to issue an order resulting from the July 31, 2008 AC, because the Board dismissed a previous citation on July 26, 2007, which arose from the same violations at the site. *See* Tr. at 20, 22, Resp. Br. at 2.

At the hearing, the parties disputed whether the site was in a better condition on June 25, 2008, than it was on January 9, 2007, the date of the previous inspection. Tr. at 14, 20, 22. But, this dispute makes no difference to the outcome of this decision because the Board never adjudicated the case which arose from the first AC. Further, in dismissing the first AC, the Board never indicated that the site was in compliance. Ruben Valdez acknowledged this at the hearing. Tr. at 24. The Board simply dismissed that administrative citation upon motion of the County. County of Jackson v. Valdez, PCB 07-34, (July 26, 2007) slip op. at 1. Therefore, the Board concludes that the prior dismissal does not bar this action.

Access to the Property

The County's authority to enter private property at reasonable times for the purpose of inspecting and investigating to ascertain possible violations of the Act is subject only to constitutional limitations. 415 ILCS 5/4(d)(1) (2006). A party seeking supression of evidence on the basis of invasion of privacy has the burden of showing that an unreasonable search occurred. Miller v. Ill. Pollution Control Bd., 267 Ill. App.3d 160, 169, 642 N.E.2d 475, 483 (4th Dist. 1994); County of Jackson v. Kamarasy, PCB 04-64 (June 16, 2005), slip op. at 58.

In this case, the respondents do not meet the burden of showing that they had a reasonable expectation of privacy. While the respondents expressed frustratation that the County inspected their property unnannounced (*see* Resp. Br. at 2), the June 25, 2008 inspection was a follow up based on previous observations. Therefore, the respondents could not have reasonably expected the County to ignore the problem as it persisted. Additionally, Terry's testimony that he could see debris from the public road contradicted the respondents' contention that it would have been impossible to see any debris without stepping onto the property. And the photographs that the respondents submitted in their amended petition demonstrate that debris was likely visable from the public highway. *See* Amd. Pet. at 3. Accordingly, the Board declines to suppress the County's evidence on the ground of invasion of privacy.

Uncontrollable Circumstances

If the Board finds that uncontrollable circumstances caused an alleged violation of the Act, the Board issues a finding of no violation. 415 ILCS 5/31.1(d)(2) (2006). A party can claim uncontrollable circumstances as a defense only when unpredictable conditions make it nearly impossible to come into compliance at the time a violation is observed. City of Chicago, Dept. of Environment v. City Wide Disposal, Inc., PCB 03-11 (Sept. 4, 2003), slip op. at 9-10. This means that adverse weather conditions are usually not uncontrollable circumstances. *Id.*

In this case, it could not have been unpredicatable for winds to blow tarps off of the materials at the site. Even if winds temporarily uncovered the tarps, there was no reason for the respondents not to cover them up promptly. And even if tarps had been in place, the materials still would have been exposed to the elements, and still would have constituted litter. Therefore, the Board finds that no uncontrollable circumstances existed, and respondents cannot evade the charges in this case by claiming that winds created uncontrollable circumstances.

Finding of Violations

The Board finds that the respondents caused or allowed the open dumping of waste resulting in: 1) litter and 2) deposition of general construction or demolition debris. Further, the Board finds that respondents did not establish a valid defense. Therefore, the Board finds that the respondents violated Sections 21(p)(1) and(p)(7) of the Act (415 ILCS 5/21(p)(1) and (7) (2006)).

Civil Penalty and Hearing Costs

The County seeks the statutory $1,500 civil penalty for each alleged violation. It also requests that the respondents pay its hearing costs. AC at 2-3. Because the respondents violated Sections 21(p)(1) and (p)(7), the Board now addresses the issues of civil penalties and hearing costs. Both are addressed in Section 42(b)(4-5) of the Act:

> In an administrative citation action under Section 31.1 of this Act, any person found to have violated any provision of subsection (p) of Section 21 of this Act shall pay a civil penalty of $1,500 for each violation of each such provision, plus any hearing costs incurred by the Board and the County, except that the civil

> penalty amount shall be $3,000 for each violation of any provision of subsection (p) of Section 21 that is the person's second or subsequent adjudicated violation of that provision. 415 ILCS 5/42(b)(4-5) (2006).

In this case, the respondents violated Sections 21(p)(1) and (p)(7), and this is the respondents' first adjudicated violation. Therefore, the civil penalty is statutorily set at $3,000. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(b)(2). The Board will assess the $3,000 penalty in its final opinion and order.

In addition, by unsuccessfully contesting the administrative citation at hearing, the respondents must pay the hearing costs of the County and the Board. *See* 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(b)(3). However, no information on those costs is in the record. The County and the Clerk of the Board are therefore each directed to file a statement of costs, supported by affidavit, and to serve the filing on the respondents. The respondents will have an opportunity to respond to the requests for hearing costs, as provided in the order below.

CONCLUSION

The Board finds that the respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) an d(7) (2006)) by causing or allowing the open dumping of waste resulting in litter and deposition of general constuction or demolition debris. Having found the violations in this administrative citation action, the respondents must pay a civil penalty of $3,000 and the hearing costs of the County and the Board. As set forth in the order below, the Board directs the County and the Clerk of the Board to file hearing cost documentation, to which the respondents may respond. After the time periods for the filings on hearing costs have expired, the Board will issue a final opinion and order imposing the civil penalty on the respondents and assessing against them any appropriate hearing costs.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

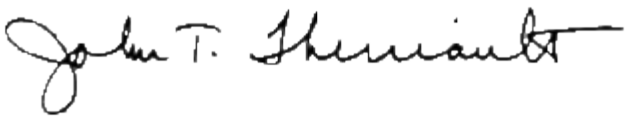
1. Respondents Alvin and Ruben Valdez violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and (p)(7) (2006)).

2. By May 7, 2009, the County of Jackson must file a statement of its hearing costs, supported by affidavit, with service on the respondents. By May 7, 2009, the Clerk of the Board must file a statement of the Board's hearing costs, supported by affidavit, with service on the respondents.

3. By May 21, 2009, the respondents may file a response with the Board to the filings required in paragraph two of this order.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 16, 2009, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board