

ILLINOIS POLLUTION CONTROL BOARD  
June 18, 2009

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-40
	)	(IEPA No. 51-09-AC)
THOMAS AND VALERIE HILL,	)	(Administrative Citation)
	)	
Respondents.	)	

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

On May 22, 2009, Thomas Hill filed a petition (Pet.) with the Board contesting an administrative citation filed by the Illinois Environmental Protection Agency (Agency) against Thomas and Valerie Hill (respondents) on April 16, 2009. *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b). The administrative citation concerns respondents' property located at Lot 18 Agnus Ussery Addition, in Anna, Union County. The property is commonly known to the Agency as "Anna/Hill (Ussery St.)" and is designated with Site Code No. 18180055092.

On June 4, 2009, the Board accepted respondent Thomas Hill's petition as timely filed. However, the Board identified several deficiencies which must be remedied before the Board can accept this case for hearing. Specifically, the Board found that the petition was deficient with respect to respondent Valerie Hill because the petition was brought on behalf of and signed by Thomas Hill only. *See* 35 Ill. Adm. Code 101.400(a). The Board further found that the petition was deficient under Section 101.304 of the Board's procedural rules because respondents had failed to serve a copy of the petition on the Agency and file proof of service with the Board. *See* 35 Ill. Adm. Code 101.304. In addition, the Board requested clarification as to whether the petition contests the Agency's determination with respect to Lot 18, the subject property, or Lot 17. The Board issued an order directing respondents to correct these deficiencies by filing an amended petition on or before July 6, 2009.

On June 8, 2009, Valerie Hill filed an amended petition (Am. Pet.) contesting the administrative citation on behalf of respondents. The Board accepts Valerie Hill's amended petition as timely filed, but directs respondents to file a second amended petition to cure remaining deficiencies.

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 March 4, 2009, respondents violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2006)) at their property by causing or allowing the open dumping of waste in a manner resulting in litter, and in a manner resulting in the deposition of general or clean construction or demolition debris. The Agency asks the Board to impose a \$1,500.00 civil penalty on the respondents for each violation, for a total penalty of \$3,000.

As required, the Agency served the administrative citation on Thomas and Valerie Hill 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 June 8, 2009. On May 22, 2009, Thomas Hill filed a petition with the Board to contest the administrative citation. 35 Ill. Adm. Code 101.300(b)(2), 108.204(b). Mr. Hill denies the allegations, stating that the vehicles on his site are not waste (Pet. 2-3), and that a road closure has prevented him from accessing the bottom of his property to remove the items that are waste. Pet. at 1-2. *See* 35 Ill. Adm. Code 108.206. On June 8, 2009, Valerie Hill filed an amended petition contesting the administrative citation on the same grounds. (Am. Pet. at 1).

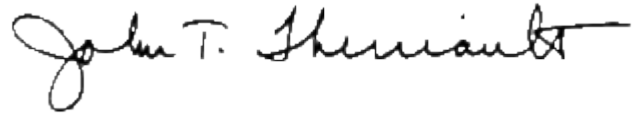
The Board finds that the amended petition brought on behalf of respondents and signed by Valerie Hill cures the petition’s deficiency with respect to Valerie Hill. However, respondents must remedy the remaining deficiencies described in the Board’s June 4, 2009, order before the Board can accept this case for hearing. 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. There is no indication that respondents served a copy of either petition upon the Agency. Further, the May 22, 2009, petition refers to both Lot 17 and Lot 18 of respondents’ property. *See* Pet. at 1-2. Clarification is still needed as to whether Mr. Hill’s petition indeed contests the Agency’s determination with respect to the subject property, Lot 18. *See* AC at 1. The amended petition filed by Valerie Hill fails to provide such clarification.

The Board therefore directs respondents to file a second amended petition for review addressing these deficiencies. If respondents fail to file a second amended petition by July 6, 2009, the Board will enter a default order against the respondents, imposing the \$3,000.00 penalty. *See Ray Logsdon Estate*, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing an amended petition as directed to cure the deficiency in the original petition).

If respondents proceed to contest the administrative citation but do not prevail on the merits of the case, respondents will have to pay not only the \$3,000.00 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 (2006). A schedule of the Board’s hearing costs is available from the Clerk of the Board and on the Board’s website at [www.ipcb.state.il.us](http://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 June 18, 2009, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board