

ILLINOIS POLLUTION CONTROL BOARD
August 11, 1994

JACKSON COUNTY,)
)
 Complainant,)
)
 v.) AC 94-35
) (Administrative Citation)
 JAMES QUALLS,)
)
 Respondent.)

ORDER OF THE BOARD:

This matter comes before the Board upon the June 10, 1994 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Jackson County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon James Qualls on June 13, 1994. Jackson County alleges that on May 11, 1994, James Qualls, present owner and/or operator of a facility located in Jackson County and commonly known to the County as Campbell Hill/James Qualls tire site, violated Sections 21(p)(1), 21(p)(2), 21(p)(3), 21(p)(4) and 21(p)(5) of the Act. The statutory penalty established for each violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

James Qualls has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that James Qualls has violated the provision alleged in the Administrative Citation. Since there are five (5) such violations, the total penalty to be imposed is set at \$2,500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order James Qualls shall, by certified check or money Order payable to the Jackson County Treasurer, pay a penalty in the amount of \$2,500.00, which is to be sent to:

Shirley Booker
Jackson County Treasurer's Office
P. O. Box 430
Jackson County Courthouse
Murphysboro, Illinois 62966

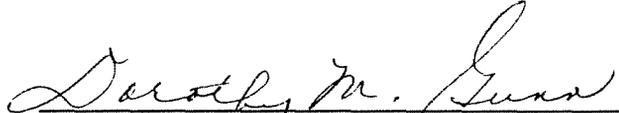
2. Respondent shall include the remittance form and write the case name and number and his social security or federal Employer Identification Number on the certified check or money order.

3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 17th day of August, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
JUN 10 1994
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) AC 94-35
)
 JAMES QUALLS,)
)
 Respondent.)

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1992), specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent is the present owner and/or operator of a facility located in the County of Jackson, State of Illinois.
2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 0778000004. The facility is known to the Agency as the Campbell Hill/James Qualls tire site.
3. The Respondent has owned and/or operated the facility at all relevant times hereto.
4. The Respondent was once before issued an Administrative Citation by the County of Jackson for the Illinois Environmental Protection Agency. That Citation was docketed by this Board as AC 91-36 and the Order was entered August 22, 1991. It resulted in a \$1,500.00 fine that the Respondent has since paid. The Citation was also issued under the same previously mentioned Site Code.

5. The Respondent's failure to clean-up the facility, led to a lawsuit in the Jackson County Circuit Court, docket number 92-CH-23, in an effort to force the Respondent to clean the site up. As of May 25, 1994 the site has not been cleaned-up.

6. Since the last Administrative Citation, the Respondent has accumulated additional debris, trash, waste, white goods, tires, and other waste products on the site. The present Administrative Citation is meant to address the additional debris, trash, waste, white goods, tires, and other waste products that have accumulated since the last Citation proceeding.

7. On May 11, 1994, George Browning, Field Inspector, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Browning's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, George Browning,'s direct observation, he has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on May 11, 1994 an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter to be collected or dumped at the facility in violation of 415 ILCS 5/21 (p)(1).

2. The Respondent has caused or allowed a scavenging operation in violation of 415 ILCS 5/21 (p)(2).

3. The Respondent has caused or allowed open burning on the facility in violation of 415 ILCS 5/21 (p)(3).

4. The Respondent has caused or allowed the deposit of waste in standing or flowing waters in violation of 415 ILCS 5/21 (p)4).

5. The Respondent has allowed or caused proliferation of disease vectors in violation of 415 ILCS 5/21 (p)(5).

CIVIL PENALTY

In accordance with 415 ILCS 5/42 (b)(4), the Respondent is subject to a civil penalty of \$500.00 for each violation specified above in paragraphs 1 - 5. This is total of \$2,500.00 for this Citation. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described below, after an adjudicatory hearing, the Respondent shall be assessed the hearing costs incurred by the Pollution Control Board. The hearing cost would be in addition to the \$2,500.00 fine.

If you acknowledge the violations cited hereinabove, the civil penalty shall be due and payable no later than August 31, 1994. If you do not petition the Pollution Control Board for review of the Administrative Citation within 35 days of service of the Administrative Citation, or contest the Citation, any judgment that may be rendered against you shall specify the due date of the civil fine any the additional costs assessed against you.

When payment is made, your check should be made payable to the Jackson County's Treasurer Office and mailed to the attention of Shirley Booker, Jackson County Treasurer, Murphysboro, Illinois. Also, please complete and return the enclosed remittance form, along with your payment, to assure proper credit.

If any civil penalty is not paid within the prescribed time, the law allows for the accumulation and payment of interest on the remaining unpaid balance. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and interest, if any, the Jackson County State's Attorney may seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Murphysboro, Il 62966. Your Petition For Review must be filed within 35 days of the date of service of the present citation on you. If you fail to file your Petition, a Default Order against you will entered by the Pollution Control Board.

The Petition may be filed with the Clerk of the Board at:

Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

A copy must also be sent to:

Office of the State's Attorney
Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse
Murphysboro, Il 62966

DATED: JUNE 9, 1994


Daniel Brenner
Assistant State's Attorney

REMITTANCE FORM

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) ~~NO. EPA AC~~ 94-35
)
 JAMES QUALLS,)
)
 Respondent.)

FACILITY: CAMPBELL HILL/QUALLS TIRE SITE
 COUNTY: JACKSON
 DATE OF INSPECTION: MAY 11, 1994
 SITE CODE: 0778000004
 CIVIL PENALTY: \$2,500.00

Date Remitted _____
 SS/FEIN # _____
 Signature _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:
 Illinois Environmental Protection Agency
 Attn. Fiscal Services
 2200 Churchill Road
 P.O. Box 19276
 Springfield, Il 62794-9276