

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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APR 01 2004

COUNTY OF JACKSON,

Complainant,

vs.

FRANK STONEMARK,

Respondent.

STATE OF ILLINOIS
Pollution Control Board

AC No. 2004-043

**NOTICE OF FILING OF PETITION TO CONTEST
ADMINISTRATIVE CITATION**

TO : Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph Street
Suite 11-500
Chicago IL 60601-3218

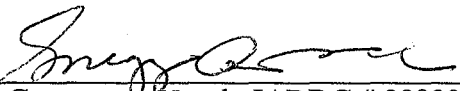
Jackson County State's Attorney
Jackson County Courthouse, 3d Floor
Murphysboro IL 62966

ATTN. Daniel Brenner, Assistant
State's Attorney

PLEASE TAKE NOTICE that on the 30th day of March 2004, the undersigned, on behalf of Frank Stonemark, the respondent, filed the original and nine (9) copies of the attached Petition to Contest Administrative Citation, a copy of which is herewith served upon you, by placing them in the United States mail, postage prepaid, to the parties and the addresses shown above.

Dated this 30th day of March, 2004.

FRANK STONEMARK, Respondent

By 
Gregory A. Veach, IARDC # 2893061
Attorney for respondent

LAW OFFICES OF GREGORY A. VEACH
3200 Fishback Road
P. O. Box 1206S
Carbondale IL 62903-1206
Telephone: (618) 549-3132
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Attorney for respondent

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COUNTY OF JACKSON,

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PETITION TO CONTEST ADMINISTRATIVE CITATION

NOW COMES the respondent, Frank Stonemark, by Gregory A. Veach, his attorney, and hereby contests the Administrative Citation issued in the above-entitled cause to the Pollution Control Board, pursuant to § 108.204 of the Rules of the Pollution Control Board, and in support thereof states as follows:

1. Answering paragraph one (1) of the Facts section of the Administrative Citation, the respondent admits that he is the owner and in possession of real estate located in Section Fifteen, Pomona Township, within Jackson County, Illinois, but denies generally and specifically each and all of the remaining allegations contained therein and further denies that the real estate he owns constitutes a "facility", under the Illinois Environmental Protection Act.
2. Answering paragraph two (2) of the Facts section of the Administrative Citation, the respondent denies generally and specifically each and all of the allegations contained therein and further denies that "open dumping", under the Illinois Environmental Protection Act, occurred upon the respondent's property.
3. Answering paragraph three (3) of the Facts section of the Administrative Citation, the respondent admits that he has owned real estate located in Section Fifteen, Pomona Township, within Jackson County, Illinois at all times relevant to this proceeding, but denies generally and specifically each and all of the remaining allegations contained therein.

4. Answering paragraph four (4) of the Facts section of the Administrative Citation, the respondent lacks sufficient knowledge to admit or deny the allegations contained therein and, therefore, demands strict proof thereof.

5. Answering the Violations section of the Administrative Citation, the respondent denies that he has caused or allowed open dumping on real estate he owns; denies that he has caused or allowed litter at or upon real estate he owns; and, denies that he caused or allowed the deposition of general construction or demolition debris or clean construction or demolition debris upon real estate he owns.

6. Answering the Civil Penalty section of the Administrative Citation, the respondent denies that he is or should be subject to a civil penalty in the amount alleged, or any other amount.

7. The respondent did not cause or allow the conditions upon real estate he owns that are alleged by the petitioner.

8. The violations alleged by the petitioner resulted from circumstances beyond the reasonable control of the respondent.

9. The respondent rented real estate he owns in Section Fifteen, Pomona Township, Jackson County, Illinois for several years during the 1990's. One lessee moved a mobile home onto the premises, resided in the mobile home, and constructed two (2) or more small "outbuildings" that were used in connection with the lessee's occupation of the premises. In or about 1999, the mobile home, one or more motor vehicles and an "outbuilding" were destroyed by fire. The lessee thereafter vacated the premises leaving behind the debris and rubbish depicted in the photographs that are attached to the Administrative Citation. None of the debris and rubbish depicted in the photographs that are attached to the Administrative Citation was generated elsewhere and brought to and deposited upon the respondent's real estate by the respondent. All of the debris and rubbish depicted in the photographs that are attached to the Administrative Citation was generated upon the premises by the residential use

and occupation of the premises by former lessees, one of whom vacated the premises following a fire that destroyed a mobile home, one or more vehicles and outbuildings.

WHEREFORE, the respondent requests that the Board enter its order dismissing the Administrative Citation and denying the civil penalties and other relief sought therein.

Dated this 30th day of March, 2004.

FRANK STONEMARK, Respondent

By 
Gregory A. Veach, IARDC # 2893061
Attorney for respondent

LAW OFFICES OF GREGORY A. VEACH
3200 Fishback Road
P. O. Box 1206
Carbondale IL 62903-1206
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e-mail : gveach@gregveachlaw.com

Attorney for respondent

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare:

I am over eighteen (18) years of age, employed in the County of Jackson, State of Illinois, in which county the within mailing occurred, and not a party to the subject cause. My business address is: 3200 Fishback Road, P. O. Box 1206, Carbondale, Illinois 62903-1206.

I served the following document, Notice of Filing of Petition to Contest Administrative Citation and Petition to Contest Administrative Citation of which true and correct copies thereof in the cause are affixed, by placing the original and nine (9) copies thereof in an envelope addressed as follows::

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph Street
Suite 111-500
Chicago IL 60601-3218

and one (1) copy in an envelope addressed as follows:

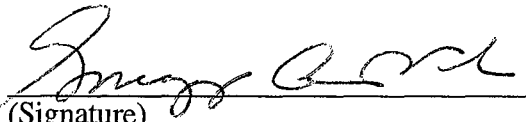
Jackson County State's Attorney
Jackson County Courthouse, 3d Floor
Murphysboro IL 62966

ATTN: Daniel Brenner, Assistant State's
Attorney

Each envelope was then sealed and with the postage thereon fully prepaid deposited in the United States mail by me at Carbondale, Illinois, on March 30, 2004.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 30, 2004 at Carbondale, Illinois.


(Signature)

LAW OFFICES OF GREGORY A. VEACH
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