

ILLINOIS POLLUTION CONTROL BOARD

May 6, 2004

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	
)	AC 04-43
FRANK STONEMARK,)	(Administrative Citation)
)	
Respondent.)	

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

On January 29, 2004, the County of Jackson (County) timely filed an administrative citation against Frank Stonemark. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County alleges that Frank Stonemark violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21 (p)(1) and (7) (2002)). The County further alleges that Frank Stonemark violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in litter and deposition of general construction or demolition debris or clean construction or demolition debris at the site know as "Pomona/Fran Stonemark-Section 15" in Jackson County.

On March 1, 2004, the Board received a motion for extension of time to file an appeal. On March 4, 2004, the Board issued an order noting that the Board could not grant the extension of time. However, the Board accepted the motion as a petition for review and found that the petition was insufficient. The Board allowed respondent until March 31, 2004, to file an amended petition. On April 1, 2004, the Board received the amended petition, which was timely filed pursuant to 35 Ill. Adm. Code 300(b)(2). The amended petition meets the service and content requirements of 35 Ill. Adm. Code 108.202 and 108.206.

As required, the County served the administrative citation on Frank Stonemark within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 108.202(b). Respondent alleges that respondent did not cause or allow the open dumping alleged in the administrative citation. *See* 35 Ill. Adm. Code 108.206. The Board accepts the petition for hearing.

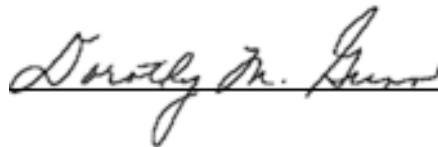
The Board directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. 35 Ill. Adm. Code 108.300; *see also* 415 ILCS 5/31.1(d)(2) (2002). By contesting the administrative citation, respondent may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available at the Board's offices and on the Board's Web site at www.ipcb.state.il.us. 35 Ill. Adm. Code 504.

Respondent may withdraw its petition to contest the administrative citation at any time before the Board enters its final decision. If respondent chooses to withdraw its petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If respondent withdraws its petition after the hearing starts, the Board will require respondent to pay the hearing costs of the Board and the County. *See id.* at 108.500(c).

The County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2002); 35 Ill. Adm. Code 108.400. If the Board finds that respondent violated Section 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21 (p)(1) and (7) (2002)), the Board will impose civil penalties on respondent. The civil penalty for violating Section 21(p) is \$1,500 for a first offense and \$3,000 for a second or subsequent offense. 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that 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) (2002); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 6, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board