

ILLINOIS POLLUTION CONTROL BOARD
March 15, 2007

COUNTY OF JACKSON)
)
 Complainant,)
)
 v.) AC 07-43
) (Administrative Citation)
 BOB OSINGA,)
)
 Respondent.)

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

On February 14, 2007, the County of Jackson (County) timely filed an administrative citation against Bob Osinga (Osinga). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site commonly known to the Illinois Environmental Protection Agency (Agency) as “Murphysboro/Bob Osinga,” designated with Site Code No., 0778105047, and located in Jackson County. For the reasons below, the Board accepts Osinga’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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) (2004); 35 Ill. Adm. Code 108.

In this case, the County alleges that Osinga violated Sections 21(p)(1) and (p)(7) of the Act by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general or clean construction or demolition debris. *See* 415 ILCS 5/21(p)(1), (p)(7) (2004). The County asks the Board to impose on Osinga a \$1,500 civil penalty for each of the two alleged violations, for a total civil penalty of \$3,000.

As required, the County served the administrative citation on Osinga within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *see also* 35 Ill. Adm. Code 108.202(b). On March 12, 2007, Osinga timely filed a petition to contest the administrative citation. *See* 415 ILCS 5/31.1(d) (2004); 35 Ill. Adm. Code 108.204(b). Osinga alleges that he is “not open dumping or operating a waste-storage[,] waste treatment or waste disposal operation” and that he is “not operating a landfill.” *See* 35 Ill. Adm. Code 108.206.

The Board accepts the petition and 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. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2004). By contesting the administrative citation, Osinga may have to pay the hearing costs of the Board and the County. *See* 415 ILCS

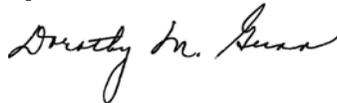
5/42(b)(4-5) (2004); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at www.ipcb.state.il.us. See 35 Ill. Adm. Code 504.

Osinga may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Osinga chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. See 35 Ill. Adm. Code 108.208. If Osinga withdraws his petition after the hearing starts, the Board will require Osinga 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) (2004); 35 Ill. Adm. Code 108.400. If the Board finds that Osinga violated Section 21(p)(1) or (p)(7) of the Act, the Board will impose civil penalties on Osinga. 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) (2004); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Osinga "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) (2004); 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 March 15, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board