

ILLINOIS POLLUTION CONTROL BOARD
August 7, 2008

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 09-4
)	(Site Code: 0778145021)
LESTER JOHNSON and)	(Administrative Citation)
ARTHUR CROSS,)	
)	
Respondents.)	

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

On July 16, 2008, the County of Jackson (County) timely filed an administrative citation against Lester Johnson and Arthur Cross (collectively respondents). See 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located in Jackson County, designated with Site Code No. 0778145021, and commonly known to the Illinois Environmental Protection Agency (Agency) as “Murphysboro/Lester Johnson” site. For the reasons below, the Board accepts as timely filed respondents’ petition to contest the administrative citation, but directs the respondents to file an amended petition to cure the deficiencies identified below or face dismissal of the appeal.

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 County alleges that respondents violated Sections 21(p)(1), (p)(3), (p)(4) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7) (2006)) on June 5, 2008, by causing or allowing litter, open burning, the deposition of waste in standing or flowing waters, and the deposition of general or clean construction or demolition debris at the Jackson County facility. The County asks the Board to impose a \$6,000 civil penalty on the respondents for the alleged violations.

As required, the County served the administrative citation on respondents 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). Specifically, the County submitted proof that both respondents had received personal service of the administrative citation on July 10, 2008. Any petition to contest the administrative citation was due within 35 days after the date of service, i.e., by August 14, 2008. See 415 ILCS 5/31.1(d)(1) (2006); 35 Ill. Adm. Code 108.204(b).

Respondents filed a request for hearing with the Board on August 4, 2008. The Board accordingly accepts respondents' petition as timely filed.

The Board finds, however, that the respondents' petition reflects deficiencies that must be remedied before this case can go forward. Specifically, the petition provides no grounds for contesting the administrative citation. The Board's content regulations require that a petition must set forth the reasons why the respondent believes the citation was improperly issued. *See* 35 Ill. Adm. Code 108.206.

The Board therefore directs the respondents to file an amended petition stating the grounds on which they contest the administrative citation. *See, e.g., County of Jackson v. Dan Kimmel*, AC 06-21 (Feb. 16, 2006) (accepting as timely filed a petition that failed to include grounds for appeal but requiring an amended petition to cure the deficiency). If the respondents fail to file an amended petition by September 8, 2008, which is the first business day following the 30th day after the date of this order, respondents' petition will be dismissed and a default order will be entered against them, imposing the \$6,000 civil penalty. *See IEPA v. Ray Logsdon Estate*, AC 05-54 (Apr. 21, 2005) (finding respondent defaulted by not filing amended petition as directed to cure deficiency in original petition).

If the respondents file an amended petition pursuant to this order and do not prevail on the merits of the case, respondents will have to pay not only the \$6,000 civil penalty but also any hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2006); 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 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 August 7, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board