

ILLINOIS POLLUTION CONTROL BOARD  
October 16, 2008

COUNTY OF JACKSON,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 09-4
	)	(Site Code No. 0778145021)
LESTER JOHNSON and ARTHUR CROSS,	)	(Administrative Citation)
	)	
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 (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a property located at latitude 7.74701 and longitude -89.40784 in Jackson County, designated with Site Code No. 0778145021, and commonly known to the Illinois Environmental Protection Agency as the “Murphysboro/Lester Johnson” site. The County alleged that respondents violated Sections 21(p)(1), (p)(3), (p)(4), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(4), (p)(7) (2006)) on June 5, 2008, by causing or allowing the open dumping of waste resulting in 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 site.

On August 7, 2008, the Board issued an order accepting as timely filed respondents’ petition to request a hearing. The Board directed respondents to file an amended petition, however, to cure the original petition’s deficiency of failing to provide grounds for contesting the administrative citation. On September 16, 2008, the Board accepted for hearing respondents’ amended petitions.

On October 1, 2008, the County filed a motion to voluntarily dismiss the administrative citation (Motion). In the motion, the County notes that a subsequent inspection found the site to be “cleaned up and in compliance with the open dumping laws.” Motion at 2. The Board grants the County’s motion, dismisses the case, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 16, 2008, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE

JUL 16 2008

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
)  
Complainant, )  
)  
v. )  
)  
LESTER JOHNSON and )  
ARTHUR CROSS, )  
)  
Respondents. )

AC 09 -  
Site Code: 0778145021

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2006), specifically 415 ILCS 5/31.1.

**FACTS**

1. The Respondent, Lester Johnson, is the present owner and in control and possession of a facility located in the County of Jackson, State of Illinois.
2. The respondent, Arthur Cross, is the occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.
3. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 0778145021. The facility is known to the Agency as the Murphysboro/Lester Johnson site.
4. The Respondents have owned, occupied, controlled and/or operated the facility at all relevant times hereto.

5. On June 5, 2008, Don Terry, Field Inspector, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's affidavit, are attached and incorporated herein by reference as Exhibit A.

### **VIOLATIONS**

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

That on June 5, 2008, an on-site inspection of the facility disclosed the following:

1. The Respondents have caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).
2. The Respondents have caused or allowed open burning at the facility in violation of 415 ILCS 5/21(p)(3).
3. The Respondents have caused or allowed the deposition of waste in standing or flowing waters in violation of 415 ILCS 5/21(p)(4).
4. The Respondents have caused or allowed the deposition of general construction or demolition; or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

### **CIVIL PENALTY**

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Six Thousand Dollars (\$6,000.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than August 15, 2008, unless otherwise provided by

order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the Fifteen Hundred Dollars (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

Respondents shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Complainant may either initiate proceedings against Respondents in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

#### **PROCEDURE FOR CONTESTING 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, Third Floor, 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 BE ENTERED BY THE POLLUTION CONTROL BOARD.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk  
Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney  
Daniel Brenner  
Assistant State's Attorney  
Jackson County Courthouse, 3<sup>rd</sup> Floor  
Murphysboro, IL 62966

DATED: July 2, 2008



Daniel Brenner  
Assistant State's Attorney

REMITTANCE FORM TO COUNTY OF JACKSON

RECEIVED  
CLERK'S OFFICE

JUL 16 2008

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
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 Complainant, )  
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 Respondents. )

NO. AC 09 - 4

FACILITY: Murphysboro/Lester Johnson Site  
COUNTY: JACKSON  
DATE OF INSPECTION: June 5, 2008  
SITE CODE: 0778145021

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Shirley Dillinger Booker  
Jackson County Treasurer  
Jackson County Courthouse  
Murphysboro, Illinois, 62966

REMITTANCE FORM TO ILLINOIS EPA

RECEIVED  
CLERK'S OFFICE

JUL 16 2008

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
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ORIGINAL  
NO. AC 09 - 4

FACILITY: Murphysboro/Lester Johnson Site  
COUNTY: JACKSON  
DATE OF INSPECTION: June 5, 2008  
SITE CODE: 0778145021

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

NOTE

Please enter the date of your remittance, social security number, if an individual, or Federal Employer Identification Number (FEIN) if a corporation, and sign the remittance form. Be sure the appropriate check is enclosed and mail, along with this remittance form, to Illinois Environmental Protection Agency, Attn: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.