

ILLINOIS POLLUTION CONTROL BOARD
September 8, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 11-14
)	(IEPA No. 308-10-AC)
JASON JOHNSON SR.)	(Administrative Citation)
)	
Respondent.)	

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

On November 10, 2010, the Illinois Environmental Protection Agency (Agency) filed an administrative citation against Jason Johnson Sr. (respondent). *See* 415 ILCS 5/31.1 (2010); 35 Ill. Adm. Code 108. The administrative citation concerns respondent’s facility located at 20512 E. CR. 600 N. in Kilbourne, Mason County. The property is commonly known to the Agency as the “Kilbourne/Johnson, Jason” site and is designated with Site Code No. 1258055002.

The Agency alleges that on September 29, 2010, respondent violated Sections 21(p)(1) and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 55(k)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in the following: litter; and used tires not altered, covered, or otherwise prevented from accumulating water.

Respondent timely filed a petition to contest the administrative citation on December 27, 2010. On August 23, 2011, the Agency filed a motion for voluntarily dismissal of this action. In the motion, the Agency states that “[b]ased upon facts and circumstances discovered since the filing of the Administrative Citation, Illinois EPA has determined that it is prudent to withdraw this Administrative Citation at this time.” Motion at 1. The Board grants the Agency’s motion and will dismiss the case.

The Board dismisses respondent’s petition for review and grants the Agency’s motion to dismiss the case. The Board closes the docket.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 8, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board

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CLERK'S OFFICE
NOV 10 2010
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
JASON JOHNSON SR. and ROBIN)
JOHNSON,)
)
Respondents.)

AC 11-14
(IEPA No. 308-10-AC)

ORIGINAL

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2008).

FACTS

1. That Jason Johnson Sr. and Robin Johnson are the current owners and operators ("Respondents") of a facility located at 20512 E. CR. 600 N. Kilbourne, Mason County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Kilbourne\Johnson, Jason.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1258055002.
3. That Respondents have owned and operated said facility at all times pertinent hereto.
4. That on September 29, 2010, Jan Mier of the Illinois Environmental Protection Agency's ("Illinois EPA") Springfield Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 11/3/10, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 0220 0000 0152 3847.

VIOLATIONS

Based upon direct observations made by Jan Mier during the course of her September 29, 2010 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2008).
- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in used tires, at this site, not altered, covered or otherwise prevented from accumulating water, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2008).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), 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 Three Thousand Dollars (\$3,000.00). 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 December 15, 2010, 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 (2008), 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 One Thousand Five Hundred Dollar (\$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) (2008), 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, Respondent's check shall be made payable to the 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. Along with payment, Respondents shall complete and return the enclosed Remittance Form 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 Office of the Illinois Attorney General may be requested to initiate proceedings against Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2008). If Respondents elect to contest this Administrative Citation, then Respondents shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondents.



Douglas P. Scott, Director
Illinois Environmental Protection Agency

Date: 11/1/10

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
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