

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION**

COUNTY OF JACKSON, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 FRANCES KLINK, )  
 )  
 Respondent. )

AC 10-30  
(Site Code: 0778145040)

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JAN 12 2012

STATE OF ILLINOIS  
Pollution Control Board

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**COMPLAINANT'S POST HEARING BRIEF**

Complainant, the County of Jackson, files its post hearing - closing brief in the matter.

**INTRODUCTION AND PROCEDURAL MATTERS**

On June 6, 2010 the Complainant filed an Administrative Citation against Frances Klink, the Respondent, under Section 31.1 of the Illinois Environmental Protection Act 415 ILCS 5/1 *et. seq.* (the Act). It is alleged the Respondent violated Section 21(p)(1), (p)(3) and (p)(7) of the Act. The Respondent timely filed her amended response to the Citation on August 20, 2010. Hearing Officer, Carol Webb, heard this matter on November 8, 2011 in Murphysboro, Illinois. On November 9, 2011 she filed her Hearing Report with this Board.

**FACTS**

On May 11, 2010, Environmental Compliance Inspector, Don Terry, inspected a site known herein after as the site (Site Code No. 0778145040) situated in Jackson County, Illinois. Tr. 7. See Also Complainant Ex. 2. The inspection was conducted pursuant to the

Jackson County Health Department's delegation agreement with the Illinois Environmental Protection Agency. Tr. 6. The site, at the time of the inspection, was owned by the Respondent. Tr. 7. See also Complainant's Ex. 2. At the site Mr Terry observed fuel cans, furniture, plastic and metal containers, dimensional lumber, plywood, metal springs, waste tires, abandoned vehicles, railroad ties, electrical wire and construction and demolition type material. Tr. 8 - 17 and Complainant's Ex. 2. See also Complainant's Ex. 1 (inspection photos). Mr. Terry also observed signs of open burning of materials. T. 13. He stated he could see the waste pile and debris with his naked eye from the public way adjoining the property. Tr. 8. The Respondent generally admitted to the waste. Tr. 18, 19-22. Mr Terry stated the site did not have the proper permits for storing waste items. Tr. 18.

Respondent did not offer a defense to the allegations. Her only explanation to the allegations was that she was cleaning the site.

### **ARGUMENT**

Open dumping is defined as "the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill." 415 ILCS 5/3.305. Refuse is defined as "waste" (415 ILCS 5/3.385). Disposal is defined as "the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste . . . into or on any land . . . ." 415 ILCS 5/3.185. Section 5/3.535 of the Act defines waste as "any garbage . . . or other discarded material. . . ." Section 3.300 of the Act defines open burning as "the combustion of any matter in the open or in an open dump". General construction or demolition debris is defined in Section 3.160 of the Act as "non-hazardous,

uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation, roofing shingles and roof coverings . . . .” Finally, litter is defined in the Litter Control Act as ‘any discarded, used or unconsumed substance or waste . . . or anything else of unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.” 415 ILCS 105/3.

The evidence presented herein clearly shows Ms. Klink caused or allowed the deposition of litter, waste and general construction demolition debris at the site. The evidence also shows she allowed or caused open burning at her site. It is also not contested the Respondent owned and controlled the site at all material times. Taking the inspection report, the photos of the site, the inspector’s testimony and the Respondent’s statements leaves little room for the Respondent to argue a defense to this charges.

Nevertheless the Respondent explains she has been cleaning the site. However, even if this were true, it would not provide her with a defense to the administrative citation. This Board has repeatedly held that clean up efforts are not a mitigating factor under the administrative citation program. City of Chicago v. City Wide Disposal, Inc., AC 03-11 (September 4, 2003). More importantly, and despite her argument, the Respondent does not deny she is responsible for the waste, debris and open burning on her site.

## CONCLUSION

Therefore, based on the record, the findings of the Hearing Officer and the arguments presented above, Complainant requests this Board to find that the Respondent violated Section 21(p)(1) (p)(3) and (p)(7) of the Act on May 11, 2010 and impose a fine of \$4,500.00 (\$1,500.00 for each violation).

Respectfully submitted,



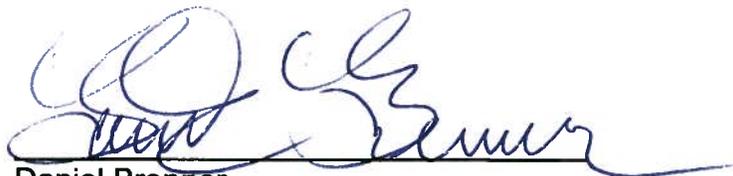
Daniel Brenner  
Assistant State's Attorney  
Jackson County Courthouse, Third Floor  
Murphysboro, Illinois 62966  
618-687-7200

For the Complainant

## PROOF OF SERVICE

I hereby certify that I did on the 10 day of January 2011, send a true and correct copy of the foregoing instrument by Regular U.S. Mail, with postage thereon fully prepaid on the envelope, by depositing in a United States Post Office Box:

To: Frances Klink  
81 Our Lane  
Murphysboro, Illinois 62966



Daniel Brenner  
Assistant State's Attorney  
County of Jackson, Illinois



**MICHAEL L. WEPSIEC**  
State's Attorney Jackson County  
Jackson County Courthouse, Third Floor  
Murphysboro, Illinois 62966  
(618) 687-7200 FAX (618) 687-7215



January 10, 2012

Clerk of the Board  
Illinois Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

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**JAN 12 2012**

**STATE OF ILLINOIS**  
**Pollution Control Board**

Re: Administrative Citation – Murphysboro/Frances Klink Site  
AC 2010-30  
Post Hearing Brief

Dear Clerk:

Enclosed for filing with the Board is the Complainant's Post Hearing Brief in this matter along with a proof of service. Thank you.

Sincerely,

Daniel Brenner  
Assistant State's Attorney  
Jackson County, Illinois

encl.

cc: Frances Klink  
Jackson County Health Department

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