

ILLINOIS POLLUTION CONTROL BOARD  
May 20, 2004

|                    |   |                           |
|--------------------|---|---------------------------|
| COUNTY OF JACKSON, | ) |                           |
|                    | ) |                           |
| Complainant,       | ) |                           |
|                    | ) |                           |
| v.                 | ) | AC 04-63                  |
|                    | ) | (Site Code #0778095036)   |
| EGON KAMARASY,     | ) | AC 04-64                  |
|                    | ) | (Site Code #0778125013)   |
| Respondent.        | ) | (Administrative Citation) |
|                    | ) | (Not Consolidated)        |

ORDER OF THE BOARD (by A.S. Moore):

On April 7, 2004, the County of Jackson (County) timely filed two administrative citations against Egon Kamarasy, which the Board has docketed as AC 04-63 and AC 04-64. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The administrative citation in AC 04-63 concerns a site in Makanda, Jackson County, identified as site code #0778095036. The administrative citation in AC 04-64 concerns a site in Carbondale, Jackson County, identified as site code #0778125013. For the reasons below, the Board accepts Mr. Kamarasy's two petitions to contest these administrative citations, grants Mr. Kamarasy leave to file an amended petition in AC 04-64, and advises the parties that the Board will entertain a motion to consolidate these two proceedings.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2002)), 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 Illinois Environmental Protection 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) (2002); 35 Ill. Adm. Code 108.

In AC 04-63, the County alleges that Mr. Kamarasy violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (7) (2002)) by causing or allowing the open dumping of waste resulting in, respectively, litter and the deposition of general or clean construction or demolition debris at the Makanda site. The County asks the Board to impose a \$3,000 civil penalty on Mr. Kamarasy for these two alleged violations.

In AC 04-64, the County alleges that Mr. Kamarasy violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (3), (7) (2002)) by causing or allowing the open dumping of waste resulting in, respectively, litter, open burning, and the deposition of general or clean construction or demolition debris at the Carbondale site. The County asks the Board to impose a \$4,500 civil penalty on Mr. Kamarasy for these three alleged violations.

Both site inspections, on which the respective administrative citations are based, took place on March 25, 2004, and both administrative citations were served on Mr. Kamarasy on April 2, 2004, by hand delivery. Accordingly, as required, the County served the administrative citations on Mr. Kamarasy within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). On May 7, 2004, Mr. Kamarasy timely filed two petitions contesting the administrative citations. *See* 415 ILCS 5/31.1(d) (2002); 35 Ill. Adm. Code 101.300(b), 108.204(b).

In his AC 04-63 petition, Mr. Kamarasy alleges that he did not cause or allow open dumping at the Makanda site. *See* 35 Ill. Adm. Code 108.206. He states that Illinois Department of Public Health ordered him to remove and dispose of mobile homes on his property that his tenants had abandoned. According to the petition, Mr. Kamarasy “assembled the mobile home debris into the one area . . . and was in the process of separating the materials for recycling and for disposal of the materials that could not be recycled.” AC 04-63 Petition at 2. Mr. Kamarasy asserts that the “violations alleged by the complainant resulted from circumstances beyond the reasonable control of the respondent since the respondent could not prevent his tenants from abandoning their mobile homes.” *Id.*

In AC 04-64, Mr. Kamarasy filed a “notice of filing” a petition to contest the administrative citation for the Carbondale site. However, the petition itself, while stating that Mr. Kamarasy did not cause or allow open dumping, refers to AC 04-63 and the Makanda site and, in fact, appears to set forth verbatim the contents of the petition filed in AC 04-63.

The Board accepts Mr. Kamarasy’s petition in AC 04-63. The Board also accepts Mr. Kamarasy’s petition in AC 04-64 as timely filed, but orders him to file an amended petition by June 21, 2004, setting forth grounds of appeal regarding the Carbondale site. Failure to timely file an amended petition will subject Mr. Kamarasy’s petition in AC 04-64 to dismissal.

The Board 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) (2002). By contesting these administrative citations, Mr. Kamarasy may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4-5) (2002); 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](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 504.

Mr. Kamarasy may withdraw either or both of his petitions to contest the administrative citations at any time before the Board enters its final decision. If Mr. Kamarasy chooses to withdraw a petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Mr. Kamarasy withdraws a petition after the hearing on that petition starts, the Board will require Mr. Kamarasy to pay the hearing costs of the Board and the County. *See id.* at 108.500(c).

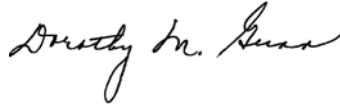
Mr. Kamarasy has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2002); 35 Ill. Adm. Code 108.400. If the Board finds that Mr. Kamarasy violated Section 21(p) of the Act as alleged, the Board will impose civil penalties on Mr. Kamarasy. The civil penalty for

violating any provision of Section 21(p) is \$1,500 for each violation of each such provision, except that the penalty amount imposed will be \$3,000 for each violation of any provision of Section 21(p) that is the respondent's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2002); 35 Ill. Adm. Code 108.500. However, if the Board finds that Mr. Kamarasy "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) (2002); *see also* 35 Ill. Adm. Code 108.500(b).

Lastly, because AC 04-63 and AC 04-64 involve the same parties and administrative citations issued based on site inspections by the same County inspector, the Board will consider a motion filed by either party to consolidate these two proceedings for hearing and decision. *See* 35 Ill. Adm. Code 101.406.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 20, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board