

ILLINOIS POLLUTION CONTROL BOARD
August 21, 2008

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 08-20
) (Administrative Citation)
JAMES MOAKE,)
)
Respondent.)

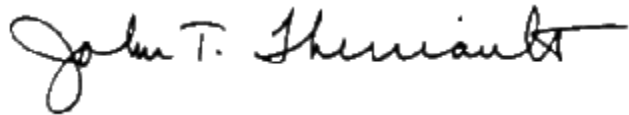
ORDER OF THE BOARD (by G.T. Girard):

On March 3, 2008, the County of Jackson (County) timely filed an administrative citation against James Moake (Moake). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Moake’s property located at latitude 37.80102 and longitude –89.39497 in Jackson County. The property is commonly known to the Illinois Environmental Protection Agency as the “Murphysboro/James Moake” site and is designated with Site Code No. 0778085005. The County alleged that Moake violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) at his property by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general or clean construction or demolition debris.

On August 14, 2008, the County filed a motion to voluntarily dismiss the administrative citation (Motion). In its 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 1. The Board grants the County’s motion, dismisses the case, and 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 August 21, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

MAR 03 2008

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,

Complainant,

v.

JAMES MOAKE,

Respondent.

ORIGINAL

AC 08 - 20
Site Code: 0778085005

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2004), specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent is the present owner and occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.

2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 0778085005. The facility is known to the Agency as the Murphysboro/James Moake site.

3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.

4. On January 9, 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 Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on January 9, 2008, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).
2. The Respondent caused or allowed open burning at the facility in violation of 415 ILCS 5/21(p)(3).
3. The Respondent has 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

In accordance with 415 ILCS 5/42 (b)(4-5), the Respondent is subject to a civil penalty of \$1,500.00 for each of violations specified above. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described below, after an adjudicatory hearing, the Respondent shall be assessed the hearing costs incurred by the Pollution Control Board. The hearing cost would be in addition to the \$4,500.00 fine.

If you acknowledge the violations cited herein above, the civil penalty shall be due and payable no later than March 15, 2007. If you do not petition the Pollution Control Board for review of the Administrative Citation within 35 days of service of the Administrative Citation, or contest the Citation, any judgment that may be rendered against you shall specify the due date of the civil fine and any additional costs assessed against

you.

When payment is made, your check should be made payable to the Jackson County's Treasurer Office and mailed to the attention of Shirley Dillinger Booker, Jackson County Treasurer, Murphysboro, Illinois, 62966. Also, please complete and return the enclosed remittance form, along with your payment, to assure proper credit.

If any civil penalty is not paid within the prescribed time, the law allows for the accumulation and payment of interest on the remaining unpaid balance. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and interest, if any, the Jackson County State's Attorney may seek to recover their costs of litigation.

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, 3rd Floor
Murphysboro, IL 62966

DATED: Feb 5, 2008

A handwritten signature in blue ink, appearing to read "Daniel Brenner", written over a horizontal line.

Daniel Brenner
Assistant State's Attorney

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

MAR 03 2008

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,

Complainant,

v.

JAMES MOAKE,

Respondent.

) ORIGINAL
)
)
)
)
)
)
)
)
)
)

NO. AC 08 - 20

FACILITY: Murphysboro/James Moake Site

COUNTY: JACKSON

DATE OF INSPECTION: January 9, 2008

SITE CODE: 0778085005

CIVIL PENALTY: \$4,500.00

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