

ILLINOIS POLLUTION CONTROL BOARD
January 21, 2010

COUNTY OF MACON, ILLINOIS)	
)	
Complainant,)	
)	
v.)	AC 08-5
)	(MCSWMD No. 2007-002-AC)
RICHARD JONES,)	(Administrative Citation)
)	
Respondent.)	

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

On August 13, 2007, the County of Macon (Macon) timely filed an administrative citation against the original respondents to this action, Annette Topps (Topps) and Richard Jones (Jones). The citation concerns a site located on Bender Road in Oakley Township, Macon County, and designated with Illinois Environmental Protection Agency Site Code No. 1158125008. The Board previously entered a default order against Topps. For the reasons below, the Board grants Macon's motion to voluntarily dismiss the administrative citation with respect to Jones.

On September 6, 2007, Jones timely filed a petition to contest the citation. The Board accepted Jones' petition for hearing in an order of September 20, 2007. Any petition from Topps was due by September 17, 2007. Because Topps failed to file a petition, the Board, on October 4, 2007, entered a default order against Topps. *See* 35 Ill. Adm. Code 108.406 ("non-contested" citation). In the October 4, 2007 order, the Board found that Topps 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)) as alleged, and required Topps to pay the statutory civil penalty of \$1,500 per violation for a total penalty of \$4,500 by November 5, 2007.

Over the next couple of years, Macon and Jones pursued settlement of the administrative citation, as reported by the parties at numerous status conference calls conducted by the hearing officer. The case against Jones has not been to hearing. On January 15, 2010, Macon filed a motion to voluntarily dismiss the citation as it concerns Jones (Mot.). In the motion, Macon states as follows:

1. That on January 4, 2010, a Memorandum of Judgment was recorded against Annette Topps, co-owner of the property that is the subject of this Administrative Citation, judgment rendered on February 29, 2008 for \$4,500 plus costs of suit.
2. That the property that is the subject of this Administrative Citation had been cleaned up by the respondent Richard Jones. Mot. at 1.

The Board grants Macon's motion. Accordingly, the Board dismisses Jones' petition, dismisses the administrative citation with regard to Jones, 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 January 21, 2010, 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.

John Therriault, Assistant Clerk
Illinois Pollution Control Board

- (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) (2006).
- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2006).
- (3) That Respondents caused or allowed the open dumping of waste in a manner resulting in the deposition of general construction and demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2006).

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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 November 30, 2007, 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 Macon County Solid Waste Management Department 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) (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, Respondents' check shall be made payable to the Macon County Solid Waste Management Department and should be mailed to the attention of Darlene K. Powell, Macon County Solid Waste Management Department; 141 South Main Street, Room 212, Decatur, Illinois, 62523-1293. 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 Macon County State's Attorney may 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 (2006). 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 Office of the Macon County State's Attorney, 253 E. Wood Street, Decatur, Illinois, 62523. 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.

By: Jack W. Ahola
Macon County States Attorney

By: 

Kenneth Boles
Assistant State's Attorney
Macon County, Illinois

Date: August 7, 2007

Prepared by: Darlene K. Powell, Inspector
Macon County Solid Waste Management Department
141 South Main Street, Room 212
Decatur, Illinois 62523-1293
217-421-0291

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

AUG 13 2007

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF MACON

Complainant,

v.

Annette Topps and
Richard Jones

Respondents.

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AC

08-5

(MCSWMD file No. 2007 – 002 – AC)

FACILITY: Oakely/Topps-Jones

SITE CODE NO.: 1158125008

COUNTY: Macon

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: July 11, 2007

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Darlene K. Powell, Macon County Solid Waste Management Department, 141 South Main Street, Room 212, Decatur, Illinois 62523-1293.