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ILLINOIS POLLUTION CONTROL BOARD

July 19, 2007

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
Vs.)	AC 07-43
)	(Administrative Citation)
)	
BOB OSINGA,)	
)	
Respondent.)	

Proceedings held on July 19, 2007, at 10:30 a.m., at Jackson County Health Department, 415 Health Department Road, Murphysboro, Illinois, before Carol Webb, Hearing Officer.

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A P P E A R A N C E S

ILLINOIS POLLUTION CONTROL BOARD
HEARING OFFICER

BY: Carol Webb
1021 North Grand Ave.
Springfield, Illinois 62794

FOR ENVIRONMENTAL PROTECTION AGENCY
SPECIAL ASSISTANT ATTORNEY GENERAL
JACKSON COUNTY

BY: Mr. Daniel Brenner

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E X H I B I T S

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P R O C E E D I N G S

(July 19, 2007)

HEARING OFFICER WEBB: Good morning. My name
is Carol Webb, and I'm a hearing officer with the
Pollution Control Board. This is AC 07-43, Jackson

6 County verse Osinga. It is July 19, and we are beginning
7 at 10:30.

8 I'll not for the record that there are no
9 members of the public present. Members of the public are
10 allowed to provide public comment if they so choose.

11 At issue in this case is the County's
12 allegation that respondent violated Sections 21(p)(1)
13 and (p)(7) of the Environmental Protection Act at a site
14 in Murphysboro, Jackson County.

15 You should know that it is the Pollution
16 Control Board and not me that will make the final
17 decision in this case. My purpose is to conduct the
18 hearing in a neutral and orderly manner, so that we have
19 a clear record of the proceedings. I will also address
20 the credibility of any witnesses on the record at the
21 end of the hearing.

22 This hearing was noticed pursuant to the Act
23 and the Board's rules, and will be conducted pursuant to
24 Sections 101.600 through 101.632 of the Board's

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1 procedural rules. At this time I would like to ask the
2 parties to please make the appearance on the record.

3 At this time, I will ask the parties to make
4 their appearances on the record.

5 MR. BRENNER: Daniel Brenner, assistant
6 state's attorney for the county.

7 HEARING OFFICER WEBB: And Mr. Osinga, you
8 are here representing yourself; is that correct?

9 MR. OSINGA: Yes.

10 HEARING OFFICER WEBB: Are there any
11 preliminary matters to discuss on the record?

12 MR. BRENNER: No, Judge.

13 HEARING OFFICER WEBB: Mr. Brenner, would you
14 like to make an opening statement.

15 MR. BRENNER: I will waive that and reserve
16 it for the post hearing brief.

17 HEARING OFFICER WEBB: Mr. Osinga, would you
18 like to make an opening statement?

19 MR. OSINGA: No. I've been working on
20 cleaning up my site, I took some pictures of what I --

21 HEARING OFFICER WEBB: That's okay, you'll
22 have an opportunity to make your statement on your
23 behalf a little later on, okay.

24 MR. OSINGA: All right.

6

1 HEARING OFFICER WEBB: Thank you. Mr.
2 Brenner, you may present your case.

3 MR. BRENNER: I would like to call my first
4 witness, Don Terry, if I may, please.

5 (Witness sworn.)

6 D I R E C T E X A M I N A T I O N

7 By Mr. Brenner:

8 Q. Please state your name and your occupation?

9 A. My name is Don Terry, and I'm an environmental
10 compliance inspector for Jackson County Health

11 Department.

12 Q. How long have you been doing that?

13 A. Four years.

14 Q. Could you briefly tell us what you do?

15 A. My duties are to inspect and investigate
16 complaints regarding open dumping and open burning
17 within Jackson County.

18 Q. Have you received any special training for this
19 occupation?

20 A. Yes, I have.

21 Q. What is that?

22 A. I received the Illinois Environmental Protection
23 Agency solid waste inspector training.

24 Q. Do you have any occupation specific licenses or

7

1 certifications?

2 A. At the completion of the training, the Illinois
3 Environmental Protection Agency certified me an
4 inspector for non-hazardous solid waste management
5 sites.

6 Q. Do you know if the health department has a
7 delegation agreement with the Illinois Environmental
8 Protection Agency?

9 A. Yes, it does.

10 Q. What does that delegation agreement basically
11 say?

12 A. It allows us and authorizes us to perform these
13 inspections, and to pursue any action if we find a

14 violation.

15 Q. And you believe this present action is consistent
16 with that delegation?

17 A. Yes, I do.

18 Q. Are you familiar with the Respondent, Bob Osinga?

19 A. Yes.

20 Q. Is he present here today?

21 A. Yes.

22 Q. Did you inspect a site on January 9 identified
23 with the site code 0778105047?

24 A. Yes, I did.

8

1 Q. And where's the site generally located?

2 A. It was in rural Jackson County south of
3 Murphysboro.

4 Q. Do you know who owns the site?

5 A. Mr. Osinga.

6 Q. And you inspected the site on January 9, 2007, I
7 think we stated that?

8 A. Yes.

9 Q. Can you tell us what you observed that day?

10 A. Yes, on January 9, it was a cloudy day, cold,
11 moderately windy, as I recall. Given there was no
12 vegetation, and no leaves on any of the trees or shrubs,
13 visibility was very good. I observed the site and
14 observed the material that appeared to have been
15 disposed. The material was in piles, was strewn about,

16 consisted of construction, demolition type material,
17 barrels, there was a mobile home on the site, which was
18 collapsing at one end and broken open, allowing weather
19 to get in.

20 None of the material I observed appeared to be
21 protected for future use, and it was stored in an
22 unsightly manner.

23 Q. How did you come to know about these violations?

24 A. In early March of 2004, we received a citizen

9

1 complaint regarding possible opening dumping at the
2 site, I investigated it and found that there were
3 violations.

4 Q. Mr. Terry, I'm going to hand you, and I'm also
5 going to hand the Respondent for identification
6 purposes, and exhibit I marked as Exhibit 1, and can you
7 tell us what that is you're looking at?

8 A. These are the photos that I took of the site
9 during my inspection on January 9, 2007.

10 Q. And do the photos accurately and fairly depict
11 the site as you observed it on that day?

12 A. Yes, I believe they do.

13 Q. Mr. Terry, I'm now going to hand you, for
14 identification purposes, I've marked this as Exhibit 2,
15 I'm going to hand the Respondent a copy as well, and ask
16 if yo can identify that document?

17 A. This is the inspection packet that I wrote up
18 after my January 9 inspection of the site.

19 Q. Did you prepare those documents?

20 A. Yes, I did.

21 Q. Do you recall what is in that report?

22 A. There's a checklist, there's a map, a narrative
23 of my inspection. The narrative lists the violations
24 that I observed that day. There's also an affidavit

10

1 stating that what is in the packet is to the best of my
2 knowledge, truthful, and also a copy of a letter from
3 Mr. Osinga to the health department.

4 Q. Do the reports, Exhibit 2 that I handed you,
5 accurately reflect the circumstances and observations at
6 the time of your inspection?

7 A. Yes, I believe they do.

8 Q. Let's go back to Exhibit 1, and I'm going to ask
9 you, if you can, identify for us briefly what is seen in
10 those photos?

11 A. The photos show material such as lumber, plastic
12 containers, there is scrap metal, air-conditioning
13 covers and units, there were several barbecue grills,
14 other types of building material and construction
15 material. The mobile home is also shown in there, and
16 can be seen at the one end where it was broken open, and
17 falling in allowing weathering to get inside. There was
18 also photo of a battery and waste tire that I had also
19 seen at the site.

20 Q. Do you know where in any of this debris came

21 from?

22 A. Because of the amount and the type, and things
23 like having several different types of barbecue grills,
24 it would be my opinion that it came from off site

11

1 somewhere.

2 Q. Did you have any conversations with the
3 Respondent about this?

4 A. We've spoken on a couple of occasions, and also
5 had written communication.

6 Q. And what did he say to you?

7 A. In our conversations, he related that he was
8 doing his best and all he could to try to get the
9 material either recycled or disposed properly.

10 Q. At the time of your inspection, could you see the
11 debris with the naked eye from a public way?

12 A. Yes.

13 Q. In your opinion, were any of the violations noted
14 in your inspection report due to uncontrollable
15 circumstances?

16 A. I do not believe so, no.

17 Q. Has the site been issued a permit by the IEPA or
18 EPA to store the waste items noted in your inspection?

19 A. Not that this office has been aware of, no.

20 MR. BRENNER: Judge, I would like to move to
21 enter Exhibits 1 and 2 on the record, if I may?

22 HEARING OFFICER WEBB: Exhibits 1 and 2 are
23 admitted.

24 MR. BRENNER: That's all I have for this

12

1 witness.

2 HEARING OFFICER WEBB: Okay. Mr. Osinga, do
3 you have any questions for Mr. Terry about anything he
4 just said?

5 MR. OSINGA: I guess not.

6 HEARING OFFICER WEBB: Okay. Mr. Terry, thank
7 you very much.

8 Mr. Osinga, if you'd like to come sit in the
9 witness chair, the court reporter will swear you in, and
10 you may make a statement on your own behalf.

11 (Witness sworn.)

12 HEARING OFFICER WEBB: Go ahead.

13 MR. OSINGA: These photos were made in
14 January, and I did have scrap metal, I've been recycling
15 that, cleaning up the site since we talked. I did have
16 to as for a postponement, my brother died earlier this
17 year and I had to go up to Wisconsin for a little while
18 the take care of affairs for him, and I have been
19 recycling this metal, and I did have some building
20 materials under a tarp, which I was told was okay, I was
21 going to use them in the future. And I got a storage
22 building shed put up, I realize you can't really tell
23 what's under the tarp, and I've been cleaning up the
24 site.

13

1 I didn't realize that I hadn't been
2 concentrating on the mobile home, I started taking some
3 of the siding off the mobile home on the north end, I
4 was planning on removing the north end of the mobile
5 home and closing that end, because I have been using
6 that for some storage for tires, to keep them out of the
7 weather.

8 There were some tires up there, they were
9 still on rims, so they couldn't fill with water, and
10 other tires I had been putting in the mobile home until
11 I could get them recycled this fall, and keep them out
12 of the weather.

13 I would have worked more on the mobile home
14 if I realized that Mr. Terry indicated that was included
15 in the amount of waste on the property, and I do plan on
16 getting it weather tight, like I said, and probably late
17 this year removing it, recycling the metal, and the
18 lumber.

19 HEARING OFFICER WEBB: If you could just
20 speak up a little bit.

21 MR. OSINGA: I plan on later this year
22 getting rid of the rest of the mobile home, and
23 recycling the materials. So, I guess that's all I have
24 to say.

14

1 HEARING OFFICER WEBB: Okay. Mr. Brenner, do
2 you have any questions of Mr. Osinga?

3 MR. BRENNER: No, I do not.

4 HEARING OFFICER WEBB: Thank you, Mr. Osinga,
5 you may resume your seat.

6 Before we hear any closing arguments, let's
7 go off the record for a minute to discuss a briefing
8 schedule.

9 (Whereupon, a discussion was held off the
10 record.)

11 HEARING OFFICER WEBB: We just had an off the
12 record discussion regarding post hearing briefs. The
13 parties have agree to a briefing schedule as follows.
14 The transcript of these proceedings will be available by
15 July 31 will be posted on the board's website. The
16 public comment deadline is August 7. Any public comment
17 must be filed in accordance with Section 101.628 of the
18 Board's procedural rules. Complainant's brief is due by
19 September 14, Respondent's brief is due by October 15,
20 and Complainant's reply, if needed, is due by October
21 31. The mailbox rule will apply.

22 Mr. Brenner, would you like to make any
23 closing arguments?

24 MR. OSINGA: What was it you just said about

15

1 October 31?

2 HEARING OFFICER WEBB: That's for the county
3 to file a response to anything that you may file.

4 MR. OSINGA: Oh, okay.

5 HEARING OFFICER WEBB: Did you want to make
6 any closing statements?

7 MR. OSINGA: Well, just that I am going to
8 continue to work, I'm going to concentrate on getting
9 the mobile home weather tight, and have that cleaned
10 out, so I plan on removing that and taking that and
11 making it weather tight, like Mr. Terry said it needed
12 to be.

13 HEARING OFFICER WEBB: Okay, great. I'm
14 sorry, were you finished?

15 MR. OSINGA: No, I -- Mr. Terry was there the
16 other day, there was some metal by the dumpster that he
17 said needed to be recycled, which I did take to
18 recycling, and I plan to take another load this week as
19 well.

20 HEARING OFFICER WEBB: Okay, great. I will
21 note again that there are no members of the public
22 present to make any statements on the record, so I will
23 proceed to make a statement as to the credibility of the
24 witnesses testifying during this hearing.

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1 Based on my legal judgment and experience, I
2 find both of the witnesses testifying to be credible.
3 At this time, I will conclude the proceedings. Thank you
4 all for your participation.

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1 STATE OF ILLINOIS)

2 MARION COUNTY)

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5 I, ANGIE R. KELLY, a Notary Public in and for the
6 County of Marion, State of Illinois, and St. Louis City,
7 State of Missouri, DO HEREBY CERTIFY that appeared
8 before me on July 19, 2007 at the offices of Jackson
9 County Health Department, 415 Health Department Road,

10 Murphysboro, Illinois, that a hearing by the Illinois
11 Pollution Control Board was held.

12 IN WITNESS WHEREOF, I have hereunto set my hand and
13 affixed my Notarial Seal this 28th day of July, 2007.

14

15

16

Angie R. Kelly

17

My Commission Expires September 27, 2009

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