

ILLINOIS POLLUTION CONTROL BOARD  
July 26, 2007

COUNTY OF OGLE, )  
)  
Complainant, )  
)  
v. ) AC 07-66  
) (Administrative Citation)  
JOHN and ANGELA BAKER, )  
)  
Respondents. )

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

On June 12, 2007, the County of Ogle (County) timely filed an administrative citation against John and Angela Baker (respondents). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site commonly known as Baker, John and Angela Baker Property with Site Code No. 1418095002, and located at 10870 N. Mt. Morris Road, Leaf River, Ogle County. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders respondents to pay \$1,500 in civil penalties.

Under the Act, 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 (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) (2006); 35 Ill. Adm. Code 108.

In this case, the County alleges that respondents violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2006)) by operating an open dump resulting in open burning. The County asks the Board to impose a \$1,500 civil penalty on respondents. As required, the County served the administrative citation on respondents within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 108.202(b).

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If a respondent fails to do so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2006); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on July 16, 2007. Respondents failed to timely file a petition. Accordingly, the Board finds that respondents violated Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2006)).

The civil penalty for violating Section 21(p) is \$1,500 for each violation. 415 ILCS 5/42(b)(4-5) (2006); 35 Ill. Adm. Code 108.500(a). Because there is one violation, the total civil

penalty is \$1,500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's finding of fact and conclusions of law.

**ORDER**

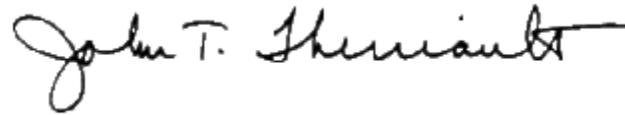
1. Respondents must pay a civil penalty of \$1,500 no later than August 27, 2007, which is the first business day following the 30th day after the date of this order.
2. Respondents must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund.
3. Respondents must send the certified check or money order and the remittance form to:

Ogle County Treasurer  
Ogle County Courthouse  
P.O. Box 40  
Oregon, Illinois 61061
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 26, 2007, 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 flourish at the end.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

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

County of Ogle,	)	
	)	
Complainant,	)	
	)	
v.	)	AC# 07-
	)	(Administrative Citation)
John and Angela Baker,	)	
	)	
	)	
Respondents.	)	

**NOTICE OF FILING**

TO: John and Angela Baker  
10870 N. Mt. Morris Road  
Leaf River, Illinois 61047

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.

John B. Roe  
Ogle County State's Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Emily S. Seifert  
Assistant State's Attorney  
Ogle County State's Attorney's Office  
Oregon, Illinois 61061

CC: IEPA Rockford  
IEPA Springfield  
OCSWMD File  
Ogle County State's Attorney

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

County of Ogle, )  
 )  
 Complainant, )  
 )  
 v. ) AC#  
 )  
 ) (ADMINISTRATIVE CITATION)  
 John & Angela Baker, )  
 )  
 Respondents. )

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2005), specifically 415 ILCS 5/31.1, and delegated to Ogle County pursuant to 415 ILCS 5/4 (r).

**FACTS**

1. The Respondents, John & Angela Baker, are the present owners and operators and in control and possession of a facility located in the County of Ogle, 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 Number 1418095002. The facility is known to the Agency as Baker, John & Angela.
3. That Respondents, John & Angela Baker, have occupied, controlled and/or operated the facility at all relevant times hereto.

4. That on April 16, 2007, Joy K. Bliton, Field Inspector for Ogle County Solid Waste Management Department, inspected the facility.

### **VIOLATIONS**

On the basis of Field Inspector, J. K. Bliton's direct observation, she has determined that the Respondents have caused or allowed open dumping at the above described facility in a manner that resulted in the following violations: 415 ILCS 9(a), 9(c), 21(a), 21(d), 21(e), 21(p)(3), 55(a)(1&2) and 35 Illinois Administrative Code Requirements, Subtitle G 812.101(a).

That on April 16, 2007 an on-site inspection of the facility disclosed the following:

- 1) The Respondents have caused or allowed the open dumping of any waste in a manner which resulted in open burning in violation of 415 ILCS 5/21(p)(3).

### **CIVIL PENALTY**

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

If Respondents acknowledge the violations cited hereinabove, the civil penalty shall be due and payable no later than thirty-five (35) days from the date of service hereof. If Respondents do not petition the Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if Respondents elect to contest this Administrative Citation, any judgment rendered against Respondents shall specify the due date of the statutory civil penalty and any costs assessed against Respondents.

When payment is made, Respondents' check should be made payable to Ogle County Solid Waste Fund and mailed to the Ogle County Treasurer, Ogle County Courthouse, P.O. Box 40, Oregon, IL 61061. Respondents shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Illinois Environmental Protection Agency shall take into consideration such failure to pay during any permit review process upon Respondents' application for a new permit or for renewal of an existing permit. If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received. Furthermore, if payment is not received when due, the Ogle County State's Attorney shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of Ogle County and the Illinois Pollution Control Board, if any, the Ogle County State's Attorney's Office will seek to recover their costs of litigation.

**PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION**

Respondents have the right to contest this Administrative Citation (*See* 415 ILCS 5/31.1). If Respondents elect to contest this Administrative Citation, Respondents must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review must also be sent to the Ogle County State's Attorney's Office. **Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a Default Judgment against you shall be entered by the Pollution Control Board.**

Respondents' original Petition must be filed with the Clerk of the Illinois Pollution Control Board at the James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, IL 60601; and a copy of said Petition for Review must also be sent to John B. Roe, Ogle County State's Attorney, Ogle County Courthouse, 106 S. Fifth Street, Suite 110, Oregon, IL 61061. In addition, a copy of the Petition needs to be sent to the Ogle County Solid Waste Management Department, Stephen J. Rypkema, Director, 909 West Pines Road, Oregon, IL 61061.

John B. Roe  
Ogle County State's Attorney

Date: \_\_\_\_\_

By: \_\_\_\_\_

Emily S. Seifert  
Assistant State's Attorney  
Ogle County State's Attorney's Office  
Oregon, Illinois 61061

CC: IEPA Rockford  
IEPA Springfield  
OCSWMD File  
Ogle County State's Attorney

## INFORMATIONAL NOTICE

**IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS!**

NOTE: THIS ADMINISTRATIVE CITATION REFERS TO ONE STATE AGENCY AND TWO COUNTY ENTITIES.

The one state agency is: Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

The two county entities are: Ogle County State=s Attorney's Office  
Attention: John Roe  
106 S. 5<sup>th</sup> Street, Suite 110  
Oregon, IL 61061

Ogle County Solid Waste Management Department  
Stephen J. Rypkema, Director  
909 W. Pines Road  
Oregon, IL 61061

If you elect to contest the enclosed Administrative Citation, you must file a Petition for Review within thirty-five (35) days of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the Clerk of the Illinois Pollution Control Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Ogle County State=s Attorney=s Office, Attention: John Roe, at the address given above. Also, a copy of the Petition for Review should be either hand-delivered or mailed to the Ogle County Solid Waste Management Department at the address given above.

**REMITTANCE FORM**

County of Ogle, )  
 )  
 Complainant, )  
 )  
 v. ) AC#  
 )  
 John & Angela Baker, )  
 )  
 Respondents. )

FACILITY: Baker, John & Angela  
COUNTY: Ogle  
DATE OF INSPECTION: April 16, 2007  
SITE CODE: 1418095002  
CIVIL PENALTY: \$1,500.00

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

**NOTE**

Please include the information on the blank lines. Mail this form with your check to:

Ogle County Solid Waste Fund  
Ogle County Treasurer  
Ogle County Courthouse  
P.O. Box 40  
Oregon, IL 61061