

ILLINOIS POLLUTION CONTROL BOARD  
February 21, 2008

COUNTY OF JACKSON, )  
 )  
 Complainant, )  
 )  
 v. ) AC 07-43  
 ) (Site Code 0778105047)  
 BOB OSINGA, ) (Administrative Citation)  
 )  
 Respondent. )

DANIEL BRENNER APPEARED ON BEHALF OF THE COMPLAINANT; and

BOB OSINGA APPEARED *PRO SE*.

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

On December 6, 2007, the Board issued an interim opinion and order finding that Bob Osinga violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and 21(p)(7) (2006)) at his property located in rural Jackson County. These violations were alleged in an administrative citation issued by the County of Jackson (County). Having received documentation of hearing costs in this administrative citation enforcement action, the Board today issues its final opinion and order.

In the interim opinion and order, the Board found that the respondent violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1) and 21(p)(7) (2006)) by causing or allowing the open dumping of waste resulting in litter and the deposition of general construction or demolition debris or clean construction or demolition debris. The allegations arose from a January 9, 2007 inspection by the County.

Because there are two violations of Section 21(p) of the Act (415 ILCS 5/21(p) (2006)) and these violations are first offenses, the total civil penalty is \$3,000. Further, because a hearing was held in this proceeding, and the respondent did not prevail, the respondent is also liable for hearing costs. 35 Ill. Adm. Code 108.502, 108.504. The hearing was held on July 19, 2007, at the County Health Department in Murphysboro, Jackson County.

On January 1, 2008, the County filed a letter reporting that the County had no hearing costs to report. On January 17, 2008, the Clerk of the Board submitted an affidavit of the Board's hearing costs totaling \$165.30. The respondent has not responded to the Board's statement of costs. See 35 Ill. Adm. Code 108.506(a) (setting 21-day deadline for response).

The Board finds the Board's hearing costs reasonable and orders respondent to pay those costs under Section 42(b)(4-5) of the Act. 415 ILCS 5/42(b)(4-5) (2006). The Board incorporates by reference the findings of fact and conclusions of law from its December 6, 2007

interim opinion and order. Under Section 31.1(d)(2) of the Act, the Board attaches the administrative citation and makes it part of the Board's final order.

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

### **ORDER**

1. The Board finds that respondent Bob Osinga violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and 21(p)(7) (2006)) at his property located in rural Jackson County.
2. The Board assesses the civil penalty of \$3,000 for the violations, as well as hearing costs totaling \$165.30 for a total amount of \$3,165.30. Respondent must pay \$3,165.30 no later than Monday, April 7, 2008, which is the first business day after the 45th day from the date of this order. Respondent must pay this amount by certified check or money order, made payable to the Jackson County Treasurer Office. The case number, case name, and respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Respondent must send the certified check or money order to:
 

Shirley Dillinger Booker  
Jackson County Treasurer  
Jackson County Courthouse  
Murphysboro, Illinois, 62966
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 February 21, 2008, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE

FEB 14 2007

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
)  
Complainant, )  
)  
v. )  
)  
BOB OSINGA, )  
)  
Respondent. )

AC 07 - 43  
Site Code: 0778105047

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 # 0778105047. The facility is known to the Agency as the Murphysboro/Bob Osinga site.

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

4. On January 9, 2007, 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, 2007, 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 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 \$3,000.00 fine.

If you acknowledge the violations cited herein above, the civil penalty shall be due and payable no later than March 1, 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 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, 3<sup>rd</sup> Floor  
Murphysboro, IL 62966

DATED: JAN 17, 2007

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

Daniel Brenner  
Assistant State's Attorney

REMITTANCE FORM

RECEIVED  
CLERK'S OFFICE

FEB 14 2007

STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF JACKSON, )  
 )  
 Complainant, )  
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 v. )  
 )  
 BOB OSINGA, )  
 )  
 Respondent. )

NO. AC 07 - 43

FACILITY: Murphysboro/Bob Osinga Site

COUNTY: JACKSON

DATE OF INSPECTION: January 9, 2007

SITE CODE: 0778105047

CIVIL PENALTY: \$3,000.00

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