

ILLINOIS POLLUTION CONTROL BOARD  
April 3, 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 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 (Agency) as the “Murphysboro/James Moake” site and is designated with Site Code No. 0778085005. For the reasons below, the Board accepts the Moake’s petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 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 on January 9, 2008, Moake violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2006)) at Moake’s 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. The County asks the Board to impose a \$4,500 civil penalty on Moake.

As required, the County served the administrative citation on Moake within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by April 1, 2008. On March 25, 2008, respondent timely filed a petition. *See* 415 ILCS 5/31.1(d) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b). The petition raises numerous grounds for contesting the administrative citation, including Moake’s claim that the County inspector informed Moake that Moake “need not be concerned with administrative action as long as [Moake] continued working to organize.” Petition at 1. *See* 35 Ill. Adm. Code 108.206.

The Board accepts the petition and directs the hearing officer to proceed expeditiously to hearing. The hearing officer will give the parties at least 21 days written notice of the hearing. *See* 35 Ill. Adm. Code 108.300; 415 ILCS 5/31.1(d)(2) (2006). By contesting the administrative citation, Moake may have to pay the hearing costs of the Board and the County. *See* 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500. A schedule of the Board's hearing costs is available from the Clerk of the Board and on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). *See* 35 Ill. Adm. Code 108.504.

Moake may withdraw his petition to contest the administrative citation at any time before the Board enters its final decision. If Moake chooses to withdraw his petition, he must do so in writing, unless he does so orally at hearing. *See* 35 Ill. Adm. Code 108.208. If Moake withdraws his petition after the hearing starts, the Board will require him to pay the hearing costs of the Board and the County. *See* 35 Ill. Adm. Code 108.500(c).

The County has the burden of proof at hearing. *See* 415 ILCS 5/31.1(d)(2) (2006); 35 Ill. Adm. Code 108.400. If the Board finds that Moake violated Section 21(p) of the Act, the Board will impose civil penalties on him. The civil penalty for violating any provision of subsection (p) of Section 21 is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500(a). However, if the Board finds that Moake has "shown that the violation resulted from uncontrollable circumstances, the Board shall adopt a final order which makes no finding of violation and which imposes no penalty." 415 ILCS 5/31.1(d)(2) (2006); *see also* 35 Ill. Adm. Code 108.500(b).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 3, 2008, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board