

ILLINOIS POLLUTION CONTROL BOARD
March 4, 2004

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.) AC 04-43
) (Administrative Citation)
 FRANK STONEMARK,)
)
 Respondent.)
)

ORDER OF THE BOARD (by J.P. Novak):

On January 29, 2004, the county of Jackson timely filed an administrative citation against Frank Stonemark. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The County alleges that Frank Stonemark violated Section 21(p)(1) and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1) and (p)(7) (2002)). The County further alleges that Frank Stonemark violated these provisions by causing or allowing the open dumping of waste in a manner that resulted in (1) litter, and (2) deposition of general construction or demolition debris or clean construction or demolition debris at the site known as “Pomona/Frank Stonemark-Section 15” in Jackson County.

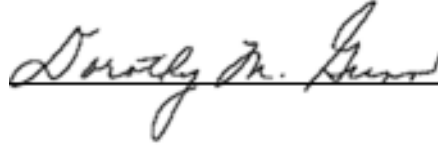
On March 1, 2004, the Board received a motion (postmarked February 26, 2004) from counsel for Frank Stonemark. The motion requests an extension of time in which to file a petition for review of this administrative citation, representing that the County has no opposition to the motion. The motion states that Frank Stonemark retained counsel February 23, 2004 and that additional time would be necessary to prepare the petition for review, otherwise due February 27, 2004. The motion requests an extension through March 31, 2004.

The Board cannot grant the requested extension, as the Board has statutory authority to grant only extensions of time for the filing of permit appeals. Compare the administrative citation provisions of the Act and the Board’s rules (415 ILCS 5/31.1(d)(1) and 35 Ill. Adm. Code 108.204) with those for permit appeals (415 ILCS 5/40(a)(1), (c) and 35 Ill. Adm. Code 105.406). But, under these circumstances, the Board will consider Frank Stonemark’s motion to be a timely filed petition for review, as it is postmarked within the statutory 35 days for filing a petition for review. *See* 35 Ill. Adm. Code 101.300(b)(2).

However, the Board finds that the petition is insufficient, in that it fails to meet the service and content requirements of 35 Ill. Adm. Code 108.202 and 206. The Board will allow Frank Stonemark until March 31, 2004, to file an amended petition curing these deficiencies. If an amended petition is not filed on or before March 31, 2004, the Board will dismiss this insufficient petition, and proceed to enter a default order imposing the statutory penalty for the violations alleged in the administrative citation.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 4, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board