

ILLINOIS POLLUTION CONTROL BOARD
November 18, 1993

COUNTY OF JACKSON,)	
)	
Complainant,)	
)	
v.)	AC 93-49
)	(County No. None)
PATRICK CHEAK,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD:

This matter comes before the Board upon an October 4, 1993 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the County of Jackson. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon Patrick Cheak on October 5, 1993. The County of Jackson alleges that on September 13, 1993, Patrick Cheak, present owner and/or operator of a facility located in the County of Jackson and commonly known to the Agency as Carbondale/Bernice Wallace, violated Sections 21(p)(1) and 21(p)(5) of the Act. The statutory penalty established for these violations is \$500.00 pursuant to Section 42(b)(4) of the Act.

Patrick Cheak has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Patrick Cheak has violated the provisions alleged in the Administrative Citation. Since there are two (2) such violations, the total penalty to be imposed is set at \$1,000.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Patrick Cheak shall, by certified check or money order payable to the Jackson County Treasurer, pay a penalty in the amount of \$1,000.00, which is to be sent to:

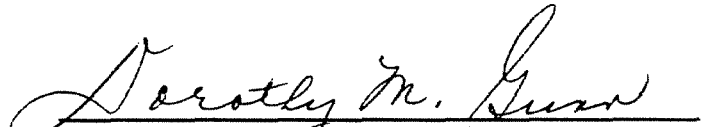
Shirley Booker
Jackson County Treasurer's Office
Jackson County Courthouse
Murphysboro, Illinois 62966

2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Number on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 18th day of November, 1993, by a vote of 5-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION



COUNTY OF JACKSON,

Complainant,

v.

PATRICK CHEAK,

Respondent.

AC

93-49

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1031.1.

FACTS

1. That Respondent is the present owner and/or operator of a facility located in the County of Jackson, State of Illinois.

2. That said facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with Site Code No. 0770150022. Said facility is commonly known to the Agency as Carbondale/Bernice Wallace.

3. That Respondent has owned and/or operated said facility at all times pertinent hereto.

4. That on September 13, 1993 George Browning, Field Inspector of the Jackson County Health Department, inspected the above described facility. A copy of the inspection report setting forth the results of such inspection is attached hereto and

made a part hereof.

VIOLATIONS

On the basis of direct observation of George Browning, the Field Inspector of the Jackson County Health Department has determined that Respondent has caused or allowed open dumping at at the above described facility in a manner which resulted in the following occurrences:

A. That on September 13, 1993 an on-site inspection of said facility disclosed the following:

- X Causing or allowing litter (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(1) [formerly 1021(q)(1)]).
- _____ Causing or allowing scavenging operations (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(2) [formerly 1021(q)(2)]).
- _____ Causing or allowing open burning (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(3) [formerly 1021(q)(3)]).
- _____ Causing or allowing the deposition of waste in standing or flowing waters (Ill. Rev. Stat. 1991, ch. 111 1/2, par 1021(p)(4) [formerly 1021(q)(4)]).
- X Causing or allowing proliferation of disease vectors (Ill. Rev. Stat. 1991, ch. 111 1/2, par 1021(~~p~~)(5)]).
- _____ Causing or allowing the generation of standing or flowing liquid discharge from the open dump site (Ill.Rev.Stat. 1991,ch. 111/1/2, par.

1021(p)(6) [formerly 1021(q)(6)]).

CIVIL PENALTY

Pursuant to Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1042(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraphs A-1 & 5, for a total of One Thousand Dollars (\$1000.00). Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than October 28, 1993. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

When payment is made, your check should be made payable to the Jackson County Treasurer's Office and mailed to the attention of Shirley Booker, Jackson County Treasurer's Office, Jackson County

Courthouse, Murphysboro, Illinois 62966. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty, imposed by the Illinois Pollution or 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. If any civil penalty, by reason of acknowledgement, default or finding after adjudicatory hearing, is not paid when due, the Office of the 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 the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, if any, the State's Attorney's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1031.1. If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Jackson County State's Attorney, attention J. Christopher Moore at the Jackson County Courthouse, Murphysboro, Illinois 62966. 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 shall be entered by the Pollution Control Board. The Petition for may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the State's Attorney at the Jackson County Courthouse, Murphysboro, Illinois 62966. Attention: J. Christopher Moore.

Dated: _____

9/23/93

J. Christopher Moore
Assistant State's Attorney

EPA AC

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SITE CODE NO.: 0770150022
CIVIL PENALTY: \$1000.00
One Thousand dollars

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276

INITIALS- CORRESPONDENTS ONLY!