



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 841-6100

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

RECEIVED
CLERK'S OFFICE

JUN 11 2007

STATE OF ILLINOIS
Pollution Control Board

(217) 782-9817
TDD: (217) 782-9143

June 7, 2007

AC07-65

The Honorable Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Re: Illinois Environmental Protection Agency v. Todd McKinney
IEPA File No. 164-07-AC: 1630450123—St. Clair County

Dear Clerk Gunn:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Ryan
Assistant Counsel

Enclosures

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

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JUN 11 2007

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
TODD MCKINNEY,)
)
Respondent.)

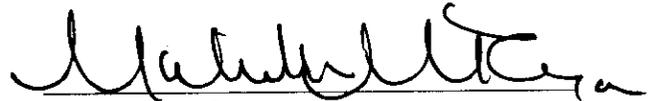
AC **0765**
(IEPA No. 164-07-AC)

NOTICE OF FILING

To: Todd McKinney
301 South 15th Street
East St. Louis, IL 62207

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: June 7, 2007

VIOLATIONS

Based upon direct observations made by Joe Zappa during the course of his April 19, 2007 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in the deposition of general construction or demolition debris; or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2004).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than July 15, 2007, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2004), and if the Illinois Pollution Control Board issues a finding of violation as 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. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2004), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2004). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.


Douglas P. Scott, Director
Illinois Environmental Protection Agency

Date: 6/7/07

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

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CLERK'S OFFICE

JUN 11 2007

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
v.)
TODD MCKINNEY,)
Respondent.)

AC 07-65
(IEPA No. 164-07-AC)

FACILITY: East St. Louis/Twin Lake Trucking SITE CODE NO.: 1630450123
COUNTY: St. Clair CIVIL PENALTY: \$3,000.00
DATE OF INSPECTION: April 19, 2007

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

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, P.O. Box 19276, Springfield, Illinois 62794-9276.



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 – (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

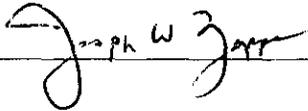
AFFIDAVIT

IN THE MATTER OF:)	
)	IEPA DOCKET NO.
)	
McKinney Hauling and)	
Excavating)	
Respondent.)	

Affiant, Joseph W. Zappa, being first duly sworn, voluntarily deposes and states as follows:

- Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
- On April 19, 2007, between 4:00 PM. and 4:45 PM, Affiant conducted an inspection of the open dump in St. Clair County, Illinois, known as East St. Louis/Twin Lake Trucking, Illinois Environmental Protection Agency Site No.1630450123.
- Affiant inspected said East St. Louis/Twin Lake Trucking open dump by an on-site inspection which included walking the site.

4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to said East St. Louis/Twin Lake Trucking open dump.



Subscribed and Sworn to before me
This 18th day of May, 2007



Notary Public



LPC # 1630450123

Inspection Date: 04/19/2007

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

1630450123 – St. Clair County
East St. Louis / Twin Lake Trucking
Prepared by: Joe Zappa
Date of Inspection: April 19, 2007

NARRATIVE

Site History

Inspector Hendricks who is a code enforcement inspector with East St. Louis called me at 3:30 PM. Mr. Hendricks explained, that McKinney Construction was hauling unclean construction debris to Twin Lakes Trucking in East St. Louis. The waste that McKinney was hauling was mostly concrete with protruding rebar, steel products, and concrete blocks. Mr. Larry Sinn's mailing address is 1 Twin Lake Drive East St. Louis, IL 62201 according to St. Clair County records.

Site Inspection

I met with Inspector Hendricks at Twin Lakes Trucking in East St. Louis at 4:00 PM. We observed construction debris that was not considered clean debris. Mr. Todd McKinney was in the process of tearing down the K&G Clothing store in Fairview Heights Illinois. Mr. McKinney had an agreement to dump his unclean construction and demolition debris at 1 Twin Lakes Drive owned by Mr. Larry Sinn of Twin Lakes Trucking. I observed 200 to 300 cubic yards of some demolition debris that had been disposed of on this site. I went back to K&G Clothing store in Fairview Heights and confirmed that the material was the same material that was coming from the demolition site.

We met with Mr. Larry Sinn at Twin Lakes Trucking and I explained to him that the construction debris was considered unclean and that he was in violation as defined by Section 3.160(b) of the Environmental Protection Act. Mr. Sinn or Mr. McKinney would have to haul the demolition debris to the landfill or clean the material on-site. Mr. Sinn thought that it would be ok to go back later and cover it with clean fill. I explained to Mr. Sinn that the only thing that should be going to that site is clean fill, or clean construction or demolition debris.

On April 20, 2007 Mr. McKinney called me to explain to me that he was at Mr. Sinn's property and that he was cleaning all of the unclean construction and demolition debris from the cement block and concrete that he had dumped on-site. He said that he had dumpsters on site to place the waste into and he would dispose of it at the local landfill.

Due to this investigation, the following violations have been alleged: Illinois Environmental Protection Act, Sections 21(a), 21(d)(1)(2), 21(e), 21(p)(1), and 21(p)(7).



1 Twin Lake Dr, East St. Louis, IL 62203

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Google

Pointer 38°36'53.17" N 90°05'30.05" W elev. 417 ft

Streaming [|||||] 100%

Eye alt 2517 ft

LPC #1630450123 / St Clair County
East St. Louis/Twin Lake Trucking
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 04/19/07
TIME: 3:30 PM
DIRECTION:North
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~001
COMMENTS:
Twin Lake Trucking Property
CCDD that was hauled from
K&G Clothing store in
Fairview Heights



DATE: 04/19/07
TIME: 3:35 PM
DIRECTION: East
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~002
COMMENTS: Same material
different pile



LPC #1630450123 / St Clair County
East St. Louis/Twin Lake Trucking
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 04/19/07
TIME: 3:37 PM
DIRECTION: South
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~003
COMMENTS: Debris that was
disposed by McKinney
Construction/Hauling. There was
wood, steel product, and rebar in
the CCDD.



DATE: 04/19/07
TIME: 3:40 PM
DIRECTION: Northwest
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~004
COMMENTS:
Another view of a different pile



LPC #1630450123 / St Clair County
East St. Louis/Twin Lake Trucking
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 04/19/07
TIME: 3:42 PM
DIRECTION: Northeast
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~005

COMMENTS:
This is an area where Mr. Sinn had
already excavated an area of the
site.



DATE: 04/19/07
TIME: 3:45 PM
DIRECTION: East
PHOTO by: Joe Zappa
PHOTO FILE NAME:
1630450123~04192007~006
COMMENTS: A pile with wood
mixed in



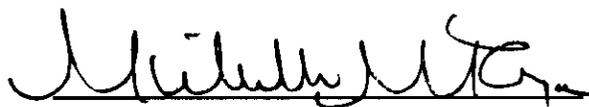
PROOF OF SERVICE

I hereby certify that I did on the 7th day of June 2007, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Todd McKinney
301 South 15th Street
East St. Louis, IL 62207

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

To: Dorothy Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
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