

ILLINOIS POLLUTION CONTROL BOARD
July 9, 2015

| | | |
|------------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | AC 15-18 |
| |) | (IEPA No. 359-14-AC) |
| CHARLES WESSEL and CL WESSEL |) | (Administrative Citation) |
| HEAVY EQUIPMENT, INC., |) | |
| |) | |
| Respondents. |) | |

ORDER OF THE BOARD (by J.A. Burke):

On October 29, 2014, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Charles Wessel and CL Wessel Heavy Equipment, Inc. (respondents). *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' facility located at 4301 North Main Street, East Peoria, Tazewell County. The property is commonly known to the Agency as the "CL Wessel Heavy Equipment Inc." site and is designated with Site Code No. 1790200022. The Agency alleged that on September 14, 2014, respondents violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2014)) by causing or allowing open dumping in a manner resulting in litter, open burning, and deposition of general or clean construction or demolition debris.

On July 1, 2015, the Agency filed a motion for voluntary dismissal of the administrative citation. In the motion, the Agency states that "[b]ased upon facts and circumstances discovered since the filing of the Administrative Citation, [the Agency] has determined that it is prudent to withdraw this Administrative Citation at this time." Motion at 1. The Board grants the Agency's motion, dismisses the case, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 9, 2015, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board

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OCT 29 2014

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.)
)
CHARLES WESSEL AND CL WESSEL)
HEAVY EQUIPMENT, INC.,)
)
)
Respondents.)

AC 15-18
(IEPA No. 359-14-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2014).

FACTS

1. That Charles Wessel is the current owner and CL Wessel Heavy Equipment, Inc. is the current operator ("Respondents") of a facility located at 4301 North Main Street, East Peoria, Tazewell County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as CL Wessel Heavy Equipment Inc.
2. That said facility is designated with Site Code No. 1790200022.
3. That Respondents have owned/operated said facility at all times pertinent hereto.
4. That on September 14, 2014, Robert J. Wagner of the Illinois Environmental Protection Agency's ("Illinois EPA") Peoria Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 10-21-14, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 5141 Charles Wessel
7012 0470 0001 3000 5158 CL

VIOLATIONS

Based upon direct observations made by Robert J. Wagner during the course of his September 14, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2014).
- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2014).
- (3) That Respondents caused or allowed the open dumping of waste in a manner resulting in 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) (2014).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondents are 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 Four Thousand Five Hundred Dollars (\$4,500.00). If

Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than November 26, 2014, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2014), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents 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) (2014), if Respondents fail to petition or elect 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2014). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.



Date:

10-21-14

Lisa Bonnett, Director
Illinois Environmental Protection Agency

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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OCT 29 2014

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
Complainant,)
v.)
CHARLES WESSEL AND CL WESSEL)
HEAVY EQUIPMENT, INC.,)
Respondents.)

AC 15-18
(IEPA No. 359-14-AC)

FACILITY: CL Wessel Heavy Equipment Inc.
SITE CODE NO.: 1790200022
COUNTY: Tazewell
CIVIL PENALTY: \$4,500.00
DATE OF INSPECTION: September 14, 2014

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.