

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|-------------------------------|---|---------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | AC 2023- |
| |) | |
| v. |) | (IEPA No. 28-23-AC) |
| |) | |
| JOHN TUTTLE and JAMES MUSSER, |) | |
| |) | |
| Respondents. |) | |

NOTICE OF FILING

To: John Tuttle
504 N Stuart
Witt, IL 62094

James Musser
504 N Stuart
Witt, IL 62094

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, OPEN DUMP INSPECTION CHECKLIST, and PROOF OF SERVICE.

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: February 22, 2023

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

| | | |
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| ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | AC 2023- |
| |) | |
| v. |) | (IEPA No 28-23-AC) |
| |) | |
| JOHN TUTTLE and JAMES MUSSER, |) | |
| |) | |
| |) | |
| Respondents. |) | |

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 (2022).

FACTS

1. That John Tuttle is the current owner and James Musser is the current operator ("Respondents") of a facility located at 328 E. Raymon Avenue, Witt, Montgomery County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Witt/Tuttle John.
2. That said facility is designated with Site Code No. 1350855046.
3. That Respondents have owned and operated said facility at all times pertinent hereto.
4. That on January 24, 2023, Mark Weber of the Illinois Environmental Protection Agency's ("Illinois EPA") Springfield Regional Office inspected the above-described facility. A copy

of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on February 22, 2023, Illinois EPA sent this Administrative Citation to John Tuttle via Certified Mail No. 7015 0640 0005 6906 4362, and to James Musser via Certified Mail No. 7012 0470 0001 2969 7043.

VIOLATIONS

Based upon direct observations made by Mark Webber during the course of the January 24, 2023 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) (2022).
- (2) 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) (2022).
- (3) That Respondents caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2022).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2022), 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 April 6, 2023 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 (2022), 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)(2022), 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, Respondents' 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 (2022). 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.



John J. Kim, Director
Illinois Environmental Protection Agency

Date: 2/21/23

Prepared by: Dawn A. Hollis, 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

REMITTANCE FORM

| | | |
|-------------------------------|---|---------------------|
| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | AC 2023- |
| |) | |
| v. |) | (IEPA No. 28-23-AC) |
| |) | |
| JOHN TUTTLE and JAMES MUSSER, |) | |
| |) | |
| |) | |
| Respondents. |) | |

FACILITY: Witt/Tuttle John
SITE CODE NO.: 1350855046
COUNTY: Montgomery
CIVIL PENALTY: \$4,500.00
DATE OF INSPECTION: January 24, 2023

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

Bureau of Land – Field Operations Section

Inspection Report

General Facility Information

| | | | |
|------------------------|--------------------------|-------------------------|-------------|
| BOL ID | 1350855046 | Evaluation Date | 1/24/2023 |
| USEPA Id | | Region | Springfield |
| Site Name | Tuttle John | County | Montgomery |
| Address | 328 E. Raymon Ave. | Phone | |
| City/State/Zip | Witt, IL 62094 | EJ Status | No |
| Limited English | <input type="checkbox"/> | Primary Language | English |

Observations

| | |
|---------------------------|-----------------------------|
| Time | 1040 - 1055 hrs |
| Weather Conditions | Mostly sunny w/5 mph E wind |
| Temperature | 40 Fahrenheit |
| Photos Taken | Yes |
| Samples Collected | No |
| Amount of Waste | 50 |
| Number of Tires | 13 |

Evaluation Type

Solid Waste Program - Open Dump Inspection

Owner

John Tuttle
 Attn: John Tuttle
 504 N. Stuart
 Witt, IL 62094

Operator

James Musser
 Attn: James Musser
 504 N. Stuart
 Witt, IL 62094

Inspection Participants

| <u>Person</u> | <u>Affiliation</u> | <u>Phone</u> |
|---------------|----------------------------|----------------|
| Mark Weber | IEPA FOS Primary Inspector | (217) 524-3037 |

Persons Interviewed

| <u>Person</u> | <u>Phone</u> | <u>E-Mail</u> |
|--------------------|--------------|---------------|
| No one interviewed | | |

Permit

| <u>Application Date</u> | <u>Log #</u> | <u>Issue Date</u> | <u>Expiration Date</u> | <u>Mod/Sp #</u> | <u>Mod/Sp Date</u> |
|-------------------------|--------------|-------------------|------------------------|-----------------|--------------------|
| NONE | | | | | |

Active Enforcement Orders

| | | | | | |
|-------------|-----------------------|-------------|-------------|----------------------|--------------------|
| <u>CACO</u> | <u>Consent Decree</u> | <u>CAFO</u> | <u>IPCB</u> | <u>Federal Court</u> | <u>State Court</u> |
| NONE | | | | | |

Executive Summary

On January 24, 2023 I, Illinois Environmental Protection Agency (IEPA) Bureau of Land/Field Operations Section (BOL/FOS) Springfield Office Field Inspector Mark Weber, conducted a re-inspection of the Tuttle site located at 328 East Raymon Avenue in Witt, Illinois. The re-inspection was conducted due to a lack of response from the responsible parties to Administrative Citation Warning Notices (ACWN).

Nearly all of the waste(s) observed and documented during previous inspections remains on-site. Apparent violations of the Illinois Environmental Protection Act (Act) cited during previous inspections as they pertain to open dumping continued to persist at this site. Please refer to the Summary of Apparent Violation(s) table found at the end of this narrative.

Evaluation Narrative

The January 24, 2023 re-inspection of the Tuttle site was conducted from 1040 – 1055 hours. The surrounding area is comprised of residential properties. The Montgomery County Assessor’s Office parcel report indicates that the property is owned by John Tuttle. A copy of that parcel report has not been added as an attachment.

I arrived on-site at around 1040 hours and observed a 50 cubic yard waste pile of demolition debris that was created when Mr. James Musser completed demolition of a partially collapsed on-site residence. This same waste pile was observed and documented during a May 24, 2022 re-inspection during which Mr. Musser was interviewed. Mr. Musser stated that he resided on the adjacent property to the southeast of the Tuttle site. There were no site representatives present during this re-inspection.

Immediately upon entering the site I observed 13 on and off rim used tires. Some of the off rim tires were observed and documented to have been allowed to accumulate water. The used tires are not stored in a manner that would prevent accumulation of water. Unlabeled compressed gas cylinders that were observed during a previous inspection have been removed. There was an inoperable boat located on-site as well. Mr. Musser explained during a previous inspection that he had sold the boat and trailer to an individual who had removed the trailer and left the boat behind.

Most of the on-site waste is located within a 50 cubic yard waste pile generated as a result of the demolition of the partially burned structure. The waste pile is composed primarily of demolition debris that includes dimensional lumber, brick, and broken concrete. There were also other solid waste(s) present such as transite siding, glass, plastic, and furniture. During this re-inspection I again observed the presence of suspect asbestos containing material (SACM) as it appears that the residence was sided with transite. National Emission Standards for Hazardous Air Pollutants (NESHAP) is not applicable in instances where a single family residence is being demolished. However, the demolition debris should be kept wet and managed under the assumption that ACM is present.

I departed the site at around 1055 hours and returned to IEPA headquarters in Springfield, Illinois. Apparent violations of the Act as it pertains to open dumping were again observed and documented during this re-inspection. Please refer to the attached site photographs taken during the inspection.

| Summary of Apparent Violation(s) | | | |
|---|-------------|------------------|---|
| Status | Date | Violation | Narrative |
| Continuing | 1/23/2023 | 55(k)(1) | Cause or allow water to accumulate in used or waste tires |
| Continuing | 1/23/2023 | 21(p)(7) | Cause or allow open dumping of any waste in a manner which results in deposition of general or clean construction or demolition debris |
| Continuing | 1/23/2023 | 21(a) | No person shall cause or allow open dumping. |
| Continuing | 1/23/2023 | 21(e) | No person shall dispose, treat, store, or abandon waste, or transport any waste into the State at/to sites not meeting requirements of act and regulations. |
| Continuing | 1/23/2023 | 21(p)(1) | No person shall cause or allow the open dumping of any waste in a manner which results in litter. |

Site Diagram



Digital Photographs



Bureau Id: 1350855046
Photo No.: 1
Photo Date: 1/24/2023
Photo Time: 10:46:48 AM
Direction: SE
Taken By: Mark Weber

On rim used tires and abandoned boat at the site. Waste pile can be seen in background.



Bureau Id: 1350855046
Photo No.: 2
Photo Date: 1/24/2023
Photo Time: 10:47:04 AM
Direction: NE
Taken By: Mark Weber

Waste pile composed of demo debris. Dimensional lumber, brick, concrete block, plastics, mixed metals, and glass are all present.



Bureau Id: 1350855046
Photo No.: 3
Photo Date: 1/24/2023
Photo Time: 10:47:17 AM
Direction: N
Taken By: Mark Weber

Off rim used tire that has been allowed to accumulate water.



Bureau Id: 1350855046
Photo No.: 4
Photo Date: 1/24/2023
Photo Time: 10:47:35 AM
Direction: NW
Taken By: Mark Weber

Waste pile as viewed the SE corner of the former residence.



Bureau Id: 1350855046
Photo No.: 5
Photo Date: 1/24/2023
Photo Time: 10:48:02 AM
Direction: SW
Taken By: Mark Weber

Pile of on-site demo debris as viewed from the NE side.



Bureau Id: 1350855046
Photo No.: 6
Photo Date: 1/24/2023
Photo Time: 10:48:15 AM
Direction: SW
Taken By: Mark Weber

Pile of demo debris as viewed along the N side of the former residence. Off rim used tires are also visible.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)
)
Illinois Environmental)
Protection Agency,)
Complainant.)
vs.)
)
John Tuttle,)
Respondent)

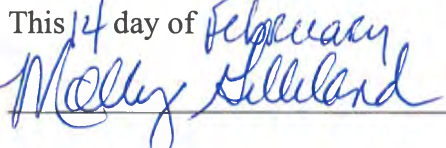
IEPA DOCKET NO.

Affiant, Mark J. Weber, being first duly sworn, voluntarily deposes and states as follows:

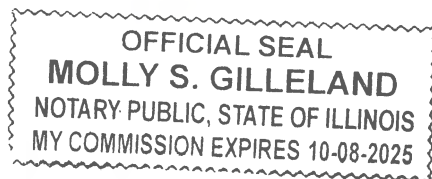
1. Affiant is a field inspector employed by the Bureau of Land/Field Operations Section of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On January 24, 2023 between 10:40 AM and 10:55 AM, Affiant conducted an inspection of a disposal site operated without an Illinois Environmental Protection Agency permit, located in Montgomery County, Illinois, and known as Tuttle, John by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC# 1350855046 by the Illinois Environmental Protection Agency.
3. Affiant inspected said Tuttle, John open dump site by an on-site inspection, which included a walk through of the site and photo documentation of site conditions.
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 Tuttle, John open dump.


Mark J. Weber

Subscribed and Sworn To before me

This 14 day of February


Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)
)
 Illinois Environmental)
 Protection Agency,)
 Complainant.)
 vs.)
)
 James Musser,)
 Respondent)

IEPA DOCKET NO.

Affiant, Mark J. Weber, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Bureau of Land/Field Operations Section of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On January 24, 2023 between 10:40 AM and 10:55 AM, Affiant conducted an inspection of a disposal site operated without an Illinois Environmental Protection Agency permit, located in Montgomery County, Illinois, and known as Tuttle, John by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC# 1350855046 by the Illinois Environmental Protection Agency.
3. Affiant inspected said Tuttle, John open dump site by an on-site inspection, which included a walk through of the site and photo documentation of site conditions.
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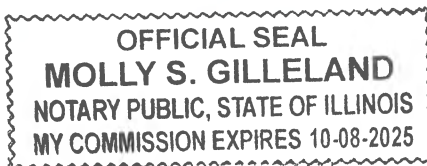
 Mark J. Weber

Subscribed and Sworn To before me

This 14 day of February



Notary Public



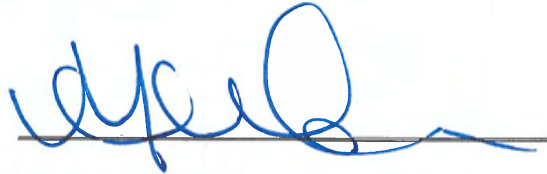
PROOF OF SERVICE

I hereby certify that I did on the 22nd day of February, 2023, send by Certified Mail 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

| | | |
|-----|----------------|----------------|
| To: | John Tuttle | James Musser |
| | 504 N Stuart | 504 N Stuart |
| | Witt, IL 62094 | Witt, IL 62094 |

and an electronic copy of the same foregoing instrument on the same date via electronic filing

To: Don Brown, 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
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
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