

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF MACON, ILLINOIS

Complainant,

v.

David Beck,

Respondents.

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AC 05-43
(MCSWMD File No. 2004-004-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the County of Macon by section 4(r) of the Illinois Environmental Protection Act, 415 ILCS 5/4(r) (2002).

FACTS

1. That Respondent, David Beck is the present owner and operator of a facility located at 2395 Sangamon Road, Decatur, Macon County, Illinois.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1158125019.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on November 23, 2004, Michael Warnick of the Macon County Solid Waste Management Department 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.

VIOLATIONS

Based upon direct observations made by Michael Warnick during the course of his November 23, 2004 inspection of the above-named facility, the Macon County Solid Waste Management Department has determined that Respondents 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) (2002).

- (2) That Respondents caused or allowed the open dumping of waste in a manner resulting in Deposition of General Construction and/or Demolition Debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), 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 Three Thousand Dollars (\$3,000.00). 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 February 01, 2005, 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 (2002), 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 Macon County Solid Waste Management Department 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) (2002), 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 Macon County Solid Waste Management Department and should be mailed to the attention of Sherri L. Ludlam, Macon County Solid Waste Management Department; 141 South Main Street, Room 212, Decatur, Illinois, 62523-1293. 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 Macon County State's Attorney may 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 (2002). 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 Office of the Macon County State's Attorney, 253 E. Wood Street, Decatur, Illinois, 62523. 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.



Jack W. Ahola
Macon County States Attorney

Date: 12-2-04

Prepared by: Michael J. Warnick, Environmental Inspector
Macon County Solid Waste Management Department
141 South Main Street, Room 212
Decatur, Illinois 62523-1293
217-421-0291

RECEIVED
CLERK'S OFFICE

DEC 06 2004

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

COUNTY OF MACON)

Complainant,)

v.)

David Beck,)

Respondents,)

AC 05-43

(MCSWMD file No. 2004-004-AC)

FACILITY: Oakely/Beck

SITE CODE NO.: 1158125019

COUNTY: Macon

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: November 23, 2004

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 Sherri L. Ludlam, Macon County Solid Waste Management Department, 141 South Main Street, Room 212, Decatur, Illinois 62523-1293.

AFFIDAVIT

DEC 06 2004

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:

David Beck,

(MCSWMD File No. 2004-004-AC)

Respondent

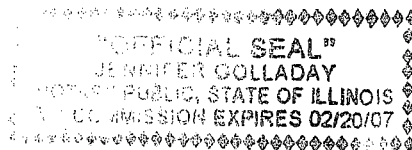
Affiant, Michael Warnick, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Macon County Solid Waste Management Department and has been so employed at all times pertinent hereto.
2. On November 23, 2004 between 11:44 am and 11:51 am, Affiant conducted an inspection of the site in Macon County, Illinois, known as Oakley/Beck, Illinois Environmental Protection Agency Site No. 1158125019.
3. Affiant inspected said Oakley/Beck by an on-site inspection which included photographing 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 Affiants knowledge and belief, is an accurate representation of Affiants observations and factual conclusions with respect to the Oakely/Beck site.

Michael Warnick

Subscribed and Sworn to before me
this 2nd of December
2004.

Jennifer Colladay
Notary Public





MACON COUNTY SOLID WASTE MANAGEMENT DEPARTMENT

141 S. Main St., Suite 212, Decatur, IL 62523 • phone 217/425-4505 • fax 217/424-1459

ADMINISTRATIVE CITATION

MACON COUNTY SOLID WASTE MANAGEMENT DEPARTMENT

MACON COUNTY SOLID)	1158125019 – MACON COUNTY
WASTE MANAGEMENT DEPT,)	Oakley/Beck
Complainant)	COMPLIANCE FILE
vs.)	
)	
David Beck,)	
Respondent)	

WARNING: CORRECTIVE ACTION REQUIRED

To contest the Administrative Citation you have received you must follow the instructions provided in the Administrative Citation. You may be served with additional Administrative Citations if you fail to complete the following corrective actions, and are found to be in violation of Section 21(p) of the [Illinois] Environmental Protection Act. Periodic inspection(s) will be conducted to verify cleanup and compliance, both during the cleanup process and after returning to compliance.

YOU ARE REQUIRED TO COMPLETE THE FOLLOWING CORRECTIVE ACTIONS:

- #1 Immediately cease all open dumping and open burning.**
- #2 By January 10, 2005, you must remove all waste to a permitted landfill or transfer station. Scrap metal not disposed at a landfill can be taken to a scrap metal facility or recycling center.**
- #3 By January 25, 2005, you must submit to the Macon County Solid Waste Management Department, copies of receipts that document the proper disposal or recycling of the wastes.**

WRITTEN RESPONSE REQUIRED

Within forty-five (45) calendar days of the date of this Citation, you must submit writing:

1. Information in rebuttal, explanation, or justification of each alleged violation;
2. A proposed Compliance Commitment Agreement (CCA) that spells out how you plan to rectify each violation (including time frames) and return the area to compliance. If you feel compliance has already been achieved, please state such in your CCA;
3. If you desire, a request for a meeting with the Macon County Solid Waste Management Department regarding the alleged violations.

Your written response of all documents submitted in reply to this notice must be sent, via certified mail return-receipt, to:

**Macon County Solid Waste Management Department
Attn: Michael Warnick, Environmental Inspector
141 South Main Street, Room 212
Decatur, IL 62523**

On any correspondence you send concerning this matter, please reference the IEPA designated facility number and facility name listed on the first page of this notice.

Failure to comply with the requirements of this notice may, at the sole discretion of the Macon County Solid Waste Management Department, result in the case being referred to the Macon County State's Attorney for prosecution.

An Administrative Citation carries a fine of \$1,500.00 for a first offense and \$3,000 for a second or subsequent offense for violation of any provision of Section 21(p).

MACON COUNTY SOLID WASTE MANAGEMENT DEPARTMENT

By: Michael Warnick

Michael Warnick
Inspector

Date: December 2, 2004

CERTIFIED MAIL #: 70022410000092600274

Enclosure

cc: Rich Gerard, Illinois Environmental Protection Agency
Ellen Robinson, Illinois Environmental Protection Agency
FOS File

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Macon LPC#: 1158125019 Region: 4 - Champaign
 Location/Site Name: Oakley/Beck, Noble (David)
 Date: 11/23/2004 Time: From 11:44am To 11:51am Previous Inspection Date: 09/28/2004
 Inspector(s): Michael Warnick Weather: Cloudy Skies, Light Mist, Temp in the 50's
 No. of Photos Taken: # 02 Est. Amt. of Waste: 10 yds³ Samples Taken: Yes # No
 Interviewed: (none) Complaint #:

Responsible Party Mailing Address(es) and Phone Number(s):	Noble Beck (deceased) David Beck (respondent) 3510 East Orchard Street Decatur, Illinois 62526 217-423-1829	Physical Address of Property 2395 Sangamon Road Decatur, Illinois 62521
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	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input checked="" type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input checked="" type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	<input type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input type="checkbox"/>
7.	21(e)	DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT	<input checked="" type="checkbox"/>
8.	21(p)	CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	
	(1)	Litter	<input checked="" type="checkbox"/>
	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input checked="" type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC # 1158125019

Inspection Date: 09/28/2004

	(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"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Michael Warnick

Signature of Inspector(s)

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.

LPC #1158125019 - Macon County
Oakley/Beck, Noble (David)
FOS File
Inspector(s): Michael Warnick
Inspection Date: Tuesday November 23, 2004

Inspection Report Narrative

This site was inspected on November 23, 2004 between the hours of 11:44 and 11:51 in the morning. The inspection was conducted by Michael Warnick, representing the Macon County Solid Waste Management Department. Weather conditions at the time of the inspection were of cloudy skies, a light misty rain, and an air temperature in the 50's. Two photographs were taken, no one was interviewed, and no samples were collected.

General Information/Site History

This site is located in Eastern Macon County. The property is located at 2395 Sangamon Road, in Oakley Township. This inspection was conducted to verify compliance of the Act, the initial inspection was conducted after receiving a complaint regarding the demolition and open burning of a building. The most recent inspection of this property occurred on September 28, 2004

Property Ownership

This property is owned by Noble and Mary Beck of 3510 East Orchard Street in Decatur, Illinois. This information was obtained through the Macon County Supervisor of Assessments Office. After talking with the family of Noble Beck, I discovered that Mr. Beck was deceased and that his son, David Beck, would be handling all the response and responsibility for the inspection and subsequent violation and cleanup.

Inspection Findings

I arrived at the property at 11:44 and immediately proceeded to the area where the open burning and open dumping had previously occurred. It appeared that, not only had no cleanup operation begun, but that more waste had been dumped on the site. I noticed that shingles, dimensional lumber, bed springs, scrap metal, paint cans, aluminum and tin cans, and metal shelving were present in the pile (photographs 1 & 2). I noticed no other piles of waste, so I returned to my vehicle and left the property at 11:51.

Summary of Apparent Violations

Environmental Protection Act ILCS 5/1 et seq. (formerly Ill Rev. Stat. Ch. 111 ½, 1001 et seq.) {hereinafter referred to as the "Act"}

Section 9(a) of the Act. No person shall cause, threaten, or allow; or tend to cause, threaten or allow, air pollution in Illinois.

- A violation of Section 9(a) is alleged because open-burning that allowed air pollution to enter the air in the State of Illinois was observed to have been allowed.

Section 9(c) of the Act. No person shall cause or allow the open burning of any refuse, conduct any salvage operation by open burning or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and not approved by the agency.

- A violation of Section 9(c) is alleged because open burning of refuse was allowed to occur.

Section 12(a) of the Act. No person shall cause, threaten, or allow, the discharge of any contaminants into the environment in any state so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources.

- A violation of Section 12(a) is alleged because open burning threatened to cause water pollution.

Section 12(d) of the Act. No person shall deposit any contaminants on the land so as to create a water pollution hazard.

- A violation of Section 12(d) is alleged because open burning occurred next to the creek that would create a water pollution hazard.

Section 21(a) of the Act. No person shall cause or allow the open dumping of any waste.

- A violation of Section 21(a) is alleged because waste was observed that had been open-dumped.

Section 21(e) of the Act. No person shall dispose, treat, store, or abandon any waste, or transport any waste into the State of Illinois for disposal, treatment, storage, or abandonment at/to sites not meeting requirements of the act.

- A violation of Section 21(e) is alleged because waste was disposed of in a manner that does not meet the requirements of the Act.

Section 21(p), (1) of the Act. No person shall cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site...Litter

- A violation of Section 21(p), (1) is alleged because open dumping resulting in litter was observed at the time of the inspection

Section 21(p), (3) of the Act. No person shall cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site...Open Burning

- A violation of Section 21(p), (3) is alleged because open dumping resulting in Open Burning was allowed to occur.

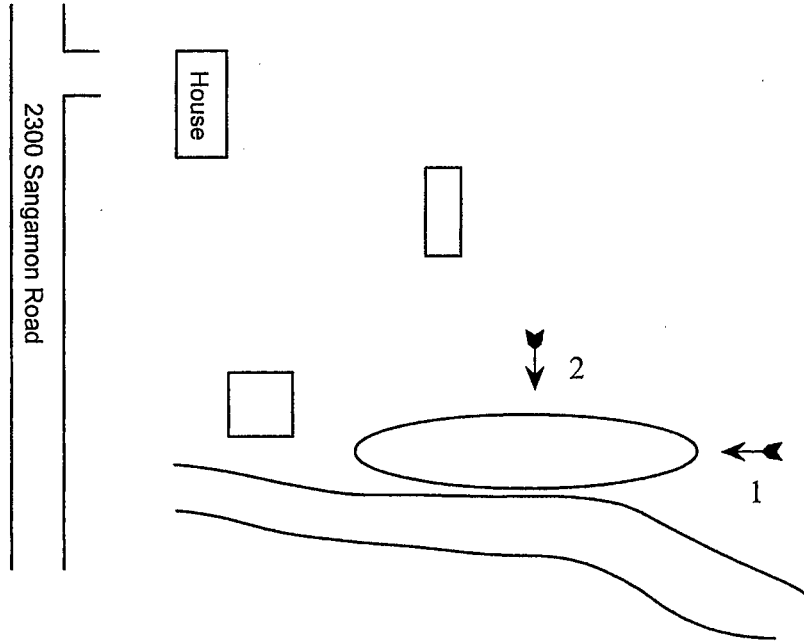
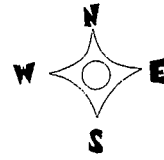
Section 21(p), (4) of the Act. No person shall cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site...Deposition of Waste in Standing or Flowing Waters.

- A violation of Section 21(p), (4) is alleged because open dumping of waste into Standing or Flowing Waters was observed.

Section 21(p), (7) of the Act. No person shall cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site...General Construction or Demolition Debris as defined in Section 3.160(a) of this Act.

- A violation of Section 21(p), (7) is alleged because the open dumping of General Construction and/or Demolition Debris was observed.

Site sketch for: Oakley/Beck
Site #1158125019 - Macon County
Inspector(s): Michael Warnick
Inspection Date: November 23, 2004



* Drawing not to scale
Arrows indicate direction/location of photographs

INSPECTION PHOTOS

DATE: 11/23/2004

SITE #: 1158125019

COUNTY: Macon

TIME: 11:48am

SITE NAME: Oakley/Beck

PHOTOS TAKEN BY:
Michael Warnick

COMMENTS: Photo
Taken Toward: West



PHOTO #: 01

DATE: 11/23/2004

TIME: 11:48am

PHOTOS TAKEN BY:
Michael Warnick

COMMENTS: Photo
Taken Toward: South



PHOTO #: 02