

RECEIVED
CLERK'S OFFICE

OCT 21 2005

STATE OF ILLINOIS
Pollution Control Board

INFORMATIONAL NOTICE !!!

AC06-13

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: This Administrative Citation refers to TWO separate State of Illinois Agencies. One is the **ILLINOIS POLLUTION CONTROL BOARD** located at James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative Citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) days** of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the clerk of the Illinois Pollution Control Board by either hand delivering or mailing to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the **ATTENTION: DIVISION OF LEGAL COUNSEL**.

Any person other than individuals **MUST** appear through an attorney-at-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 Ill. Adm. Code 101.400(a).

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD OCT 21 2005

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LYNDELL HEINZMANN,)
)
Respondent.)

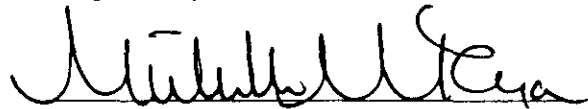
AC 06-13
(IEPA No.408-05-AC)

NOTICE OF FILING

To: Lyndell Heinzmann
7542 Kinmundy Road
Kinmundy, Illinois 62854

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: October 19, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

ADMINISTRATIVE CITATION

OCT 21 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
LYNDELL HEINZMANN,)
))
))
))
))
Respondent.)

AC 06-13
(IEPA No. 408-05-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 (2004).

FACTS

1. That Lyndell Heinzmann ("Respondent") is the present owner and operator of a facility located on Highway 51, just west of the town of Iuka in Marion County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Iuka/Heinzmann.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1210155007.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on September 15, 2005, John Senjan of the Illinois Environmental Protection Agency's Marion 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.

VIOLATIONS

Based upon direct observations made by John Senjan during the course of his September 15, 2005 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 scavenging, a violation of Section 21(p)(2) of the Act, 415 ILCS 5/21(p)(2) (2004).

- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 November 30, 2005, 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
Douglas P. Scott, Director *by wcc*
Illinois Environmental Protection Agency

Date: 10/19/05

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

REMITTANCE FORM

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OCT 21 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LYNDELL HEINZMANN,)
)
)
)
Respondent.)

AC 06-13
(IEPA No. 408-05-AC)

FACILITY: luka/Heinzmann SITE CODE NO.: 1210155007
COUNTY: Marion CIVIL PENALTY: \$4,500.00
DATE OF INSPECTION: September 15, 2005

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.

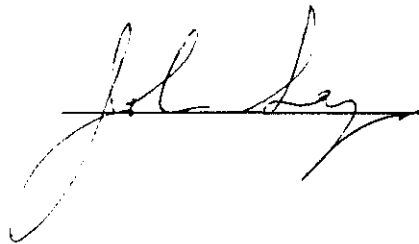
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)	
)	
ILLINOIS ENVIRONMENTAL)	LPC# 1210155007 – MARION COUNTY
PROTECTION AGENCY,)	IUKA / HEINZMANN, LYNDELL
Complainant)	COMPLIANCE FILE
)	
vs.)	
LYNDELL HEINZMANN)	
Respondent)	
)	

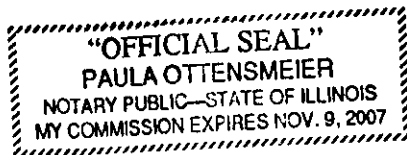
Affiant, John S. Senjan being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Land Pollution Control Division of the Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On September 15, 2005 between 2:30 p.m. and 3:00 p.m., Affiant conducted an inspection of an open dump operated without an Agency permit, located in Marion County, Illinois and is known as Iuka/Heinzmann, Lyndell, by the Illinois Environmental Protection Agency. The said site has been assigned Site Code No. LPC# 1210155007 by the Agency.
3. Affiant inspected said Iuka/Heinzmann, Lyndell site by an on-site inspection, which included walking and photographing the site.
4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Checklist 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 Iuka/Heinzmann, Lyndell open dump site.



Subscribed and Sworn To before me
This 4th day of October, 2005


Notary Public



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist**

County: Marion LPC#: 1210155007 Region: 6 - Collinsville
 Location/Site Name: Iuka/Heinzmann, Lyndell
 Date: 09/15/2005 Time: From 2:30pm To 3:00pm Previous Inspection Date: _____
 Inspector(s): John Senjan and Mike Grant Weather: ≈ 78 and overcast
 No. of Photos Taken: # 5 Est. Amt. of Waste: 100 yds³ Samples Taken: Yes # _____ No
 Interviewed: Lyndell Heinzmann Complaint #: 2005-115

Responsible Party
Mailing Address(es)
and Phone
Number(s):

Lnydell Heinzmann
7542 Kinmundy Road
Kinmundy, IL 62854

	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 checked="" type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input checked="" 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 checked="" 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 # 1210155007

Inspection Date:

09/27/2005

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input 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"/>

Signature of Inspector(s)

Informational Notes

- [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- 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.
- 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.

REMARKS

Inspection

On September 15, 2005, based on a complaint (C-2005-115), this author conducted a routine open dumping inspection at the site. The inspection lasted from approximately 2:30 p.m. to 3:00 p.m. The weather was overcast with little to no wind. The temperature was in the mid to upper 70's. The inspection consisted of walking the site, taking photographs. Mike Grant-DLPC/FOS-Collinsville accompanied me, during the inspection.

The complaint alleged that Mr. Heinzmann has been bringing in all sorts of material and burning it. Including mobile homes. The site is located on Highway 51 just west of the town of Iuka.

Upon arrival, I immediately notice a large burn pile just to the east of a large metal building. Closer examination of the burned material revealed a menagerie of different items. I found cans, plastic, mobile home frames, and lots of general household debris. I estimated there was approximately 100 cubic yards of waste material. I also noted that the largest portion of the burned debris had been pushed toward a low-lying drainage area. Lastly, I discovered a handful of copper wire that someone had salvaged from the burn pile and salvaged.

After photographing the site, we went to the house located on the property. No one answered. Later, I was able to obtain a property deed from the Marion County Courthouse. Lyndell Heinzmann recently purchased the property.

During the September 15, 2005, inspection the following violations of the Act were observed:

Section 9(a) – Cause, threaten or allow air pollution in Illinois.

Section 9(c) – Cause or allow open burning.

Section 21(a) – Cause or allow open dumping.

Section 21(d)(1) – Conduct a waste disposal operation without a permit.

Section 21(d)(2) – Conduct a waste disposal operation in violation of any regulations or standards adopted by the Board.

Section 21(e) – Dispose, treat, store, or abandon any waste, or transport any waste into the state at/to sites not meeting the requirements of the Act and Regulations.

Section 21(p)(1) - Cause or allow the open dumping of any waste in a manner, which results in litter.

Section 21(p)(2) - Cause or allow the open dumping of any waste in a manner, which results in scavenging.

Section 21(p)(3) – Cause or allow the open dumping of any waste in a manner, which results in open burning.

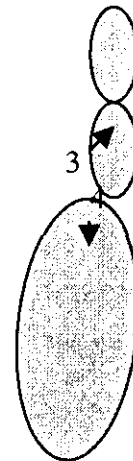
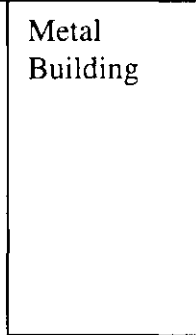
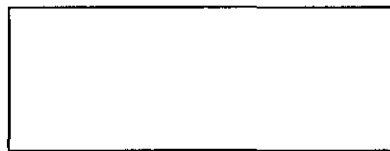
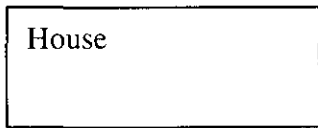
cc: DLPC/FOS - Collinsville Region

State of Illinois
Environmental Protection Agency
Facility Diagram

Date of Inspection: September 15, 2005 Inspector: John Senjan

Site Code: 0210155007 County: Marion

Site Name: Heinzmann, Lyndell Time: 2:30 p.m.



2
1

5

HWY 50

**LPC #1210155007-Marion County
Iuka/Heinzmann, Lyndell
FOS File**

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 15, 2005
TIME: 2:30 p.m.
DIRECTION: E
PHOTO by: John Senjan
PHOTO FILE NAME:
1210155007~09152005-001
COMMENTS:



DATE: September 15, 2005
TIME: 2:30 p.m.
DIRECTION: NE
PHOTO by: John Senjan
PHOTO FILE NAME:
1210155007~09152005-002
COMMENTS:



**LPC #1210155007-Marion County
Iuka/Heinzmann, Lyndell
FOS File**

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 15, 2005
TIME: 2:30 p.m.
DIRECTION: NE
PHOTO by: John Senjan
PHOTO FILE NAME:
1210155007~09152005-003
COMMENTS:



DATE: September 15, 2005
TIME: 2:30 p.m.
DIRECTION: S
PHOTO by: John Senjan
PHOTO FILE NAME:
1210155007~09152005-004
COMMENTS: Photo taken from on
top of a mobile home trailer frame.



LPC #1210155007-Marion County
Iuka/Heinzmann, Lyndell
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 15, 2005

TIME: 2:30 p.m.

DIRECTION: W

PHOTO by: John Senjan

PHOTO FILE NAME:

1210155007~09152005-005

COMMENTS: Sign at entrance of
the property.



PROOF OF SERVICE

I hereby certify that I did on the 19th day of October 2005, 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: Lyndell Heinzmann
7542 Kinmundy Road
Kinmundy, Illinois 62854

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