

BRIAN J. TOWNE
STATES ATTORNEY



OFFICE OF THE
STATE'S ATTORNEY
LASALLE COUNTY, ILLINOIS

LASALLE COUNTY GOVERNMENTAL COMPLEX
707 ETNA ROAD, SUITE 251
OTTAWA, IL 61350

(815) 434-8340
Fax (815) 434-8357

STATE OF ILLINOIS
COUNTY OF LASALLE
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
JUN 10 2009
STATE OF ILLINOIS
Pollution Control Board

COUNTY OF LASALLE)

Complainant)

v.)

ERNEST W. FOSTER)

Respondent)

AC NO. 09-52

ORIGINAL

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/31.1, formerly Ill. Rev. Stat. 1991, Ch. 111 ½, par. 1031.1, and delegated to the County of LaSalle pursuant to 415 ILCS 5/4 (r), formerly Ill. Rev. Stat., Ch. 111 ½, par. 1004 (r).

FACTS

1. That Respondent, Ernest W. Foster, is the present owner and/or operator of property located in Deer Park Township, LaSalle County, Illinois.
2. That said facility is an open dump, operating without an Illinois Environmental Protection Agency Permit, and is designated with Site Code No. 0998055002. Said facility is commonly known to the Agency as the Ernest W. Foster Property.
3. That the Respondent has owned and/or operated said facility since Dec. 15, 1998.
4. That on May 8, 2009, Mathew Stafford, Landfill Inspector, LaSalle County Department of Environmental Services and Land Use, under the authority of the Illinois Environmental Protection Agency, inspected the above described facility. A copy of the inspection reports setting forth the results of such inspections are attached hereto and made a part hereof.

VIOLATIONS

5. On the basis of direct observations of Mathew Stafford of the LaSalle County Department of Environmental Services and Land Use, it has been determined that the Respondents have caused or allowed open dumping at the above described facility in a manner which results in the following occurrences:

That on May 8, 2009, an on-site inspection of said facility disclosed the following:

- _____ XXX Causing or allowing litter -- 415 ILCS 5/21 (p) (1), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021 (p) (1) [formerly par. 1021 (q) (1)]).
- _____ Causing or allowing scavenging operations -- 415 ILCS 5/21 (p) (2), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 102 (p) (2) [formerly par. 1021 (q) (2)]).
- _____ Causing or allowing open burning -- 415 ILCS 5/21 (p) (3), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(p) (3) [formerly par. 1021 (q) (3)]).
- _____ Causing or allowing the deposition of waste in standing or flowing waters -- 415 ILCS 5/21 (p) (4), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021 (p) (4) [formerly par. 1021 (q) (4)]).
- _____ Causing or allowing proliferation of disease vectors -- 415 ILCS 5/21 (p) (5), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(p) (5) [formerly par. 1021 (q) (5)]).
- _____ Causing or allowing the generation of standing or flowing liquid discharge from the open dump site -- 415 ILCS 5/21 (p) (6), (formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(p) (6) [formerly par. 1021 (q) (6)]).
- _____ Causing or allowing the deposition of general construction or demolition debris, or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

CIVIL PENALTY

6. Pursuant to 415 ILCS 5/42 (b) (4), formerly Ill. Rev. Stat. 1991, ch. 111 ½, par. 1042 (b) (4), Respondent herein is subject to a civil penalty of Fifteen Hundred Dollars (\$1500.00) for each violation specified above in Paragraph 5(b) for a total of one Thousand Five Hundred Dollars (\$1500.00). Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violation 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, in addition to the Fifteen Hundred Dollar (\$1500.00) statutory penalty for each finding of violation.
7. If you acknowledge the violations cited herein above, the civil penalty specified above shall be due and payable no later than thirty-five (35) days from the date of service hereof. If you do not petition the Illinois Pollution Control Board of review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.
8. When payment is made, your check should be made payable to the **LASALLE COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES AND LAND USE** and mailed to:

LaSalle County Department of Environmental Services and Land Use
119 West Madison Street
Room 107
Ottawa, Illinois 61350

Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

9. If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest from such penalty will be assessed for the period from the date payment is due until the date payment is received. If any civil penalty, by reason of acknowledgment, default or finding after the adjudicatory hearing is not paid when due, the LaSalle County State's Attorney may initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest and hearing costs of the Illinois Pollution Control Board, if any, the State's Attorney's Office will seek to recover their costs of litigation.

**PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION**

10. You have the right to contest this Administrative Citation. See: 415 ILCS 5/31.1, formerly Ill. Rev. Stat. 1991, Ch. 111 ½, par. 1031.1. If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. Copies of the Petition for Review should also be filed with:

Troy D. Holland
LaSalle County Special Assistant State's Attorney
707 Etna Road
Ottawa, Illinois 61350

LaSalle County Department of Environmental Services and Land Use
119 West Madison Street
Room 107
Ottawa, Illinois 61350

Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. Petition for Review may be filed with the:

Clerk of the Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

Dated: 5-26-09

Brian J. Towne
LaSalle County State's Attorney

By:



Troy D. Holland
Special Assistant State's Attorney

RECEIVED
CLERK'S OFFICE
JUN 10 2009
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF LASALLE)
)
 Complainant)
)
 v.)
)
 ERNEST W. FOSTER)
)
 Respondent(s))

AC NO. 0952

ORIGINAL

REMITTANCE FORM

FACILITY: Ernest W. Foster Site Code: 0998055002
1065 N 21st Road County: LaSalle
Oglesby, IL 61348 Township: Deer Park

CIVIL PENALTY: \$1500.0 for each violation

Number of Violation(s): one (1)

Total Remittance: \$1,500.00

Date of Inspection: May 8, 2009

DATE REMITTED: _____

SS/FEIN NUMBER _____

SIGNATURES _____

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:

LaSalle County Department of Environmental Services and Land Use
119 West Madison Street, Room 107
Ottawa, IL 61350

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JUN 10 2009
STATE OF ILLINOIS
Pollution Control Board

INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS

NOTE: This Administrative Citation Refers to One State Agency and Two County Entities

The One State Agency Is:

ILLINOIS POLLUTION CONTROL BOARD
JAMES R. THOMPSON CENTER
100 WEST RANDOLPH STREET, SUITE 11-500
CHICAGO, ILLINOIS 60601

ORIGINAL

The Two County Entities Are:

LASALLE COUNTY STATE'S ATTORNEY OFFICE
ATTENTION: TROY D. HOLLAND
707 ETNA ROAD
OTTAWA, ILLINOIS 61350

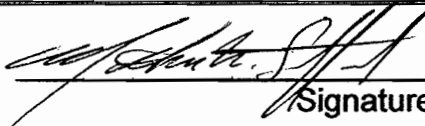
LASALLE COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES AND LAND USE
119 WEST MADISON STREET
ROOM 107
OTTAWA, ILLINOIS 61350

If you elect to contest the enclosed ADMINISTRATIVE CITATION, you must file a PETITION FOR REVIEW within 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 the PETITION FOR REVIEW to the CLERK OF THE ILLINOIS POLLUTION CONTROL BOARD at the address given above. A copy of the PETITION FOR REVIEW should be either hand-delivered or mailed to the LASALLE COUNTY STATE'S ATTORNEY'S OFFICE, ATTENTION: TROY D. HOLLAND at the address given above. Also, a copy of the PETITION FOR REVIEW should be either hand-delivered or mailed to the LASALLE COUNTY DEPARTMENT OF ENVIRONMENTAL SERVICES AND LAND USE at the address given above.

LPC # 0998055002

Inspection Date: 05/08/2009

	(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 checked="" 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)

LASALLE Co.

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.

NARRATIVE INSPECTION REPORT DOCUMENT

Date of Review: May 8, 2009
Site Code: 0998055002

Inspector(s): Mathew Stafford
Time: 7:40 a.m. - 7:50 a.m.

GENERAL REMARKS

On May 8, 2009, a solid waste inspection was conducted by Mathew Stafford representing LaSalle County Environmental Services and Land Use Department under the delegated authority of the Illinois Environmental Protection Agency at the property listed as being owned by Ernest W. Foster. The property is located in the SW ¼ of the SE ¼, Section 14, Deer Park Township, LaSalle County, Illinois. It is also described as a 5 acre lot at 1065 N. 21st Rd. During the inspection the following was noted: causing or allowing open dumping; disposing and storing of waste at a site not meeting requirements of the Act and Regulations, failure to submit an application for a permit to develop and operate a landfill, causing or allowing the open dumping of waste in a manner resulting in litter at the dump site. The property is also in violation of the LaSalle County Abandoned and Inoperable Motor Vehicle Ordinance.

This case has been open since 1998 and over 30 inspections have been conducted at this location.

Weather conditions noted on arrival were mostly cloudy and approximately 55° F.

I arrived at the site at approximately 7:40 a.m. I approached the site from the west on North 21st Road. I paused on the road on the western side of the property and photographed a number of vehicles parked along the north side of north 21st road (photo 1140_01). At least four semi-trailers, a camper, a dump truck, and a semi tractor can be identified in the photograph. I continued driving east on north 21st and paused when in front of the row of vehicles observed in photo 1140_01. Photograph 1140_02 shows a camper, flatbed semi trailer, a ford pick-up truck, two semi trailers, semi tractor, as well as other miscellaneous material strewn amongst the vehicles. I continued driving towards the east side of the property. I paused and captured a picture of some more vehicles parked near the road (1140_03). At the southeast corner of the property I paused at a small pathway entering the property to capture a picture of miscellaneous solid waste littering the property (photo 1140_04). I turned slightly to the left and photographed some utility poles, a pile of metal, a trailer stacked with construction/demolition debris, a vehicle, a trailer filled with lawn mowers and lawn mower parts, and other miscellaneous materials scattered in the photo view. I drove to the east side of the property and turned north onto East 1075th Road, pausing to take a picture of a pile of rolled fencing material and the trailer filled with lawn mowers (1143_04). While it is difficult to discern the specifics of some of the solid waste on the property because of distance from the road and vegetation, the pictures do help to provide evidence of the volume of solid waste present on the property.

I concluded the inspection and left the facility at approximately 7:50 am.

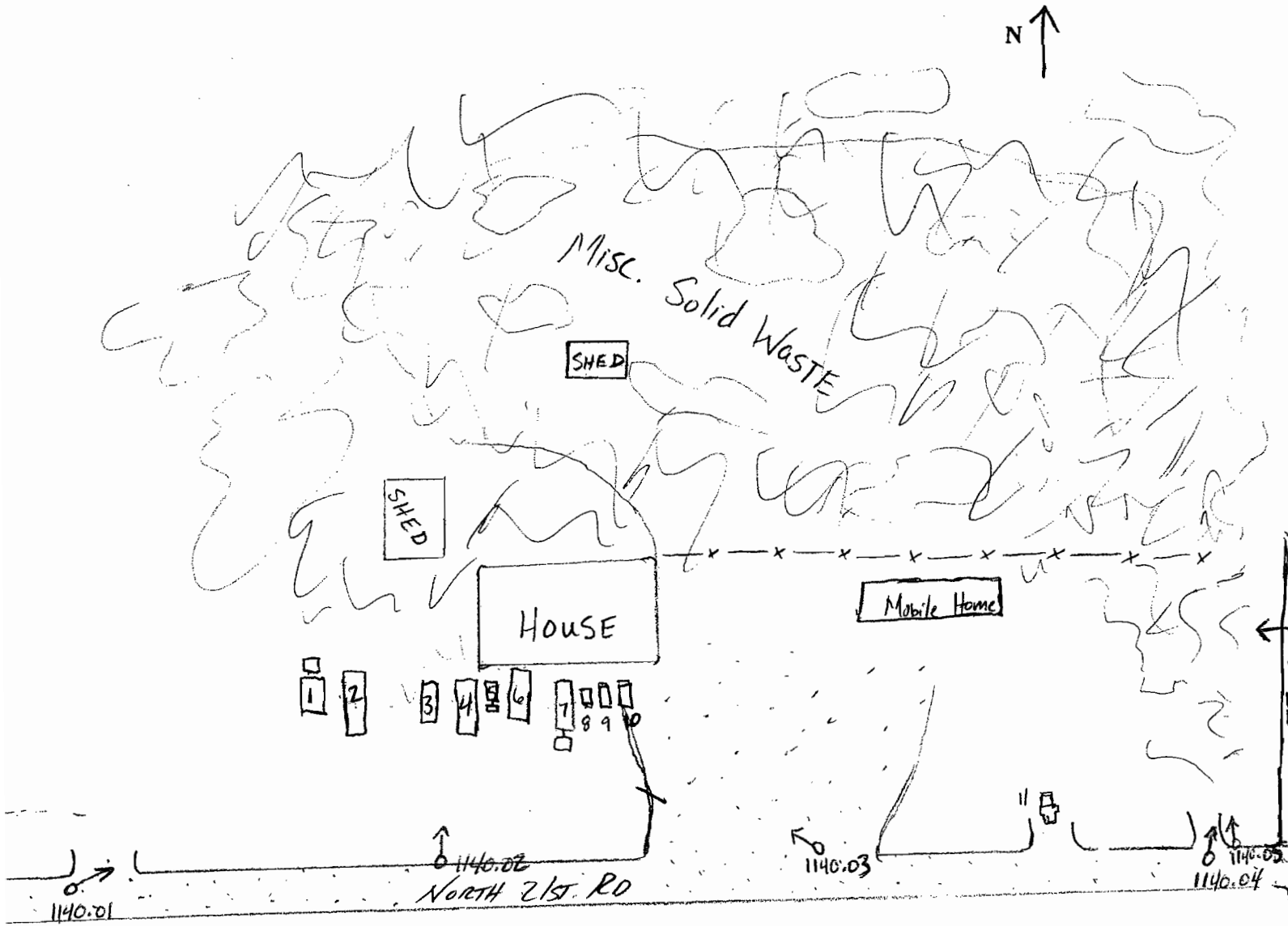
EXPLANATION OF PHOTOGRAPHS

Photo 1140.01	Shows vehicles parked along North 21 st Road	Photo taken facing east
Photo 1140.02	Shows vehicles and miscellaneous solid waste	Photo taken facing north
Photo 1140.03	Shows vehicles	Photo taken facing northwest
Photo 1140.04	Shows misc. solid waste southeast side of property	Photo taken facing north
Photo 1140.05	Shows misc. solid waste southeast side of property	Photo taken north
Photo 1140.06	Shows misc. solid waste southeast side of property	Photo taken facing west

STATE OF ILLINOIS
 ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Date of Inspection: 5-8-2009 Inspector: M. STAFFORD
 Site Code: 0998055002 County: LaSalle
 Site Name: ERNEST FOSTER PROP. Time: 7:40a - 7:50a



* NOT to Scale ♂ - PHOTO TAKEN
 □ - VEHICLE


site is scattered with misc.
 metals, appliances, wood, household
 waste, equipment, vehicles, etc.

5 acre parcel

Vehicle ID

- | | |
|----------------------------|---------------------------|
| 1. Dump Truck | 7. Semi Tractor + Trailer |
| 2. Semi Trailer | 8. Pick-up |
| 3. R.V. | 9. Pick-up |
| 4. Semi Trailer / Flat bed | 10. Pick-up |
| 5. Pick-up | 11. Semi Tractor |
| 6. Semi Trailer | |


INSPECTION PHOTOS


DATE: <u>5 / 08 / 09</u>	SITE#: <u>0 9 9 8 0 5 5 0 0 2</u> CO.: LASALLE
TIME: 7:40 a.m.	SITE NAME: Foster Property
PHOTOGRAPH TAKEN BY: M. Stafford	
COMMENTS: Picture taken toward: ----- east ----- ----- ----- ----- ----- -----	
DISK#: 1140 PHOTO#: 01	

DATE: <u>05 / 08 / 09</u>
TIME: 7:42 a.m.
PHOTOGRAPH TAKEN BY: M. Stafford
COMMENTS: Picture taken toward: ----- north ----- ----- ----- ----- ----- -----
DISK #: 1140 PHOTO #: 02



INSPECTION PHOTOS

DATE: <u>5 / 08 / 09</u>	SITE#: <u>0 9 9 8 0 5 5 0 0 2</u> CO.: LASALLE
TIME: 7:46 a.m.	SITE NAME: Foster Property
PHOTOGRAPH TAKEN BY: M. Stafford	
COMMENTS: Picture taken toward:	
----- North ----- ----- ----- ----- -----	
DISK#: 1140 PHOTO#: 05	

DATE: <u>5 / 08 / 09</u>	
TIME: 7:49 a.m.	
PHOTOGRAPH TAKEN BY: M. Stafford	
COMMENTS: Picture taken toward:	
----- west ----- ----- ----- ----- -----	
DISK #: 1140 PHOTO #: 06	

MICHAEL E. HARSTED DEPARTMENT DIRECTOR

119 WEST MADISON STREET ROOM 107 OTTAWA, ILLINOIS 61350

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ORIGINAL

COUNTY OF LASALLE)
Complainant)
v.)
ERNEST W. FOSTER)
Respondent(s))

AC NO. 09-52 RECEIVED CLERK'S OFFICE JUN 10 2009

PROOF OF SERVICE

The undersigned, after being first duly placed on oath, voluntarily deposes and states that he personally served the attached LaSalle County Administrative Citation, Informational Notice, Remittance Form, together with correct copies of the attached Inspector's Affidavit, the Inspection Report Form with attachments upon the following named person(s):

Ernest W. Foster 1065 N 31st Road Oglesby, IL 61348

or upon an authorized agent of such person(s) for the purpose of service of process upon such person(s), by:

- () personal service
(X) Certified Mail, postage pre-paid and deposited in the United States Mail, plainly addressed to such person(s) at the above-described location.

on this, the 27th day of May, A.D. 2009.

Tracy Jonassen, LaSalle County

Subscribed and Sworn to Before Me this 27 day of May, A.D. 2009.

Julie A Hedlin Notary Public



LaSalle County
ENVIRONMENTAL SERVICES AND LAND USE

MICHAEL E. HARSTED
DEPARTMENT DIRECTOR

119 WEST MADISON STREET
ROOM 107
OTTAWA, ILLINOIS 61350

RECEIVED
CLERK'S OFFICE

JUN 10 2009

STATE OF ILLINOIS
Pollution Control Board

**STATE OF ILLINOIS
COUNTY OF LASALLE**

COUNTY OF LASALLE)

Complainant)

v.)

ERNEST W. FOSTER)

Respondent(s))

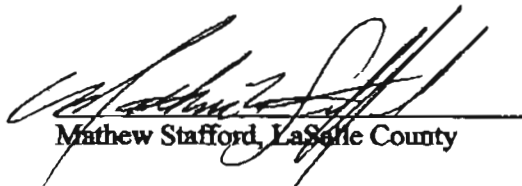
AC NO. 09-52

ORIGINAL

AFFIDAVIT

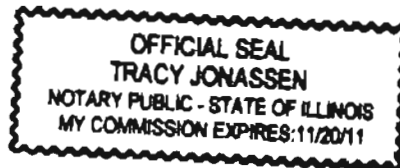
Affiant, Mathew Stafford, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the County of LaSalle and has been so employed at all times pertinent hereto.
2. On May 8, 2009 between 7:40 a.m. and 7:50 a.m., Affiant conducted inspections of a disposal/storage site operated without an Agency permit, located in LaSalle County, Illinois and known as the Ernest W. Foster Property by the Illinois Environmental Protection Agency. Said site has been assigned site code number 0998055002 by the Agency.
3. Affiant inspected the said Deer Park Township / Ernest W. Foster Property open dump site by an on-site inspection which included conducting a visual inspection from the road and photographing the site.
4. As a result of the material actions referred to in paragraph 3 above, Affiant completed the Inspection Report Forms 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 Deer Park Township/ Ernest Foster Property open dump.


Mathew Stafford, LaSalle County

Subscribed and Sworn to Before Me
this 21st day of May, A.D. 2009.


Notary Public





ORIGINAL

Date: 06/04/2009

Mathew Stafford:

The following is in response to your 06/04/2009 request for delivery information on your Certified Mail(TM) item number 7108 2133 3936 1792 3101. The delivery record shows that this item was delivered on 06/01/2009 at 04:01 PM in OGLESBY, IL 61348. The scanned image of the recipient information is provided below.

Signature of Recipient:

RECEIVED
CLERK'S OFFICE
JUN 10 2009
STATE OF ILLINOIS
Pollution Control Board

Address of Recipient:

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service

Ph: 815/434-8666

LaSalle County
ENVIRONMENTAL SERVICES AND LAND USE

Fax 815/433-9303

MICHAEL E. HARSTED
DEPARTMENT DIRECTOR

119 WEST MADISON STREET
ROOM 107
OTTAWA, ILLINOIS 61350

June 4, 2009

Ms. Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, IL 60601

Re: 0998055002 - LaSalle County
Deer Park Township / Ernest Foster Property

RECEIVED
CLERK'S OFFICE
JUN 10 2009
STATE OF ILLINOIS
Pollution Control Board

A209-52

ORIGINAL

Re: **ADMINISTRATIVE CITATION**
IEPA Case No. :
Site Code No. : 0998110001
Inspection Date: 05/08/09

Dear Ms. Gunn:

Enclosed for filing with the Board is the Administrative Citation package issued to the above-captioned facility. I am forwarding one complete copy which includes the following:

1. The Administrative Citation
2. The Field Inspector's Affidavit
3. A Remittance Form

I am also enclosing ten (10) additional copies of the Administrative Citation and Inspector's Affidavit. Please file stamp a copy and return it to our office. A self-addressed stamped envelope is enclosed for your convenience.

For your records, the Citation package was delivered via Certified US Mail (9171082133393617923101) on June 1, 2009 and received by Ernest Foster on June 1, 2009. The signed and dated affidavit shows receipt of this Administrative Citation so your files will reflect the thirty-five (35) days after which the Board can enter the required Default Order if a Petition for Review has not been filed. If the Respondent pays the civil penalty without filing a Petition for Review, I will so notify your office.

Respondents were served at:

Ernest W. Foster
1065 North 21st Rd
Oglesby, IL 61348

Thank you for your assistance and kind attention to this matter. If there are further documents or materials which you need from us, please let me know.

Sincerely,

Michael E. Harsted

Michael E. Harsted
Director

Enclosures