

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 09 2009

STATE OF ILLINOIS
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS
LANDSCAPING,

Respondents.

AC

09-54

(IEPA No. 118-09-AC)

NOTICE OF APPEARANCE

NOW COMES KINGERY DURREE WAKEMAN & RYAN, ASSOC., by PHILIP M. O'DONNELL, and enters its appearance in this matter on behalf of Respondents, RICHARD A. & DAVID J. KRUMHOLZ d/b/a KRUMHOLZ BROTHERS LANDSCAPING, and requests that all notices, pleadings and correspondence be directed to counsel at the address stated herein.

RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS
LANDSCAPING, Respondents.

By:



One of Their Attorneys

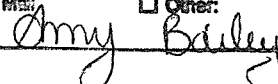
PHILIP M. O'DONNELL #2183
KINGERY DURREE WAKEMAN
& RYAN, ASSOC.
915 Commerce Building
416 Main Street
Peoria, Illinois 61602
Telephone: (309) 676-3612
Facsimile: (309) 676-1329

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on 7-7- 2009

By: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Certified Mail Other:

Signature:



JUL 09 2009

STATE OF ILLINOIS
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
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v.)
)
RICHARD A. & DAVID J. KRUMHOLZ)
d/b/a KRUMHOLZ BROTHERS)
LANDSCAPING,)
)
Respondents.)

AC 09-54
(IEPA No. 118-09-AC)

RESPONDENTS' PETITION FOR REVIEW

NOW COME Respondents RICHARD A. & DAVID J. KRUMHOLZ d/b/a KRUMHOLZ BROTHERS LANDSCAPING by their attorney, PHILIP M. O'DONNELL of KINGERY DURREE WAKEMAN & RYAN, ASSOC., and as and for their Petition for Review filed pursuant to §31.1(d)(2) of the Illinois Environmental Protection Act (415 ILCS 5/31.1(d)(2) (2006)) and state as follows:

1. Respondents admit the allegations of Paragraph One.
2. Respondents deny the allegations of Paragraph Two.
3. Respondents deny the characterization of their property as "said facility" as described in Paragraph Two, but admit that they have owned and operated the property located at 2115 East Wilkins Drive in Peoria County at all times pertinent hereto.
4. Respondents admit that James Jones of the Environmental

Protection Agency inspected their property on May 8, 2009. Respondents admit a copy of his inspection report is attached to the Administrative Citation and made a part thereof but deny the characterizations of the results of said inspection as contained in the Jones' report.

5. Respondents admit that on June 8th the E.P.A. sent the Administrative Citation via certified mail to them, but deny the factual allegations regarding the violations stated in the Citation.

Violations

Respondents deny they committed the violations as alleged in the Administrative Citation on page Two, and deny they violated the Sections 21(p) (1), (3), and (7) of the Act.

Civil Penalty

Respondents hereby Petition the Pollution Control Board for review of the violations alleged in the Administrative Citation herein, and deny they should be subject to the civil penalties alleged in pages two and three of the Citation. Respondents file this Petition for Review pursuant to §31.1 of the Act, and deny they are liable for the various statutory penalties alleged in the Administrative Citation.


That the Respondents request a review and re-hearing for several reasons. Those reasons include, but are not limited to:

- A. The facility in question is not an open dump operation. The facility in question is a landscaping contractor's business;

- B. That the facility in question has never been operated as an open dump; nor is it being operated as an open dump, nor are there any intentions to operate said facility as an open dump and all said prior activities and future intentions have been as aforesaid in (A);
- C. That the Respondents have not, nor have they allowed other individuals, to litter the facility in question or have the Respondents willfully or maliciously allowed open burning on said property. If any litter collection has occurred, it has been without knowledge or permission of the Respondent;
- D. If any fire or burning occurred, it was not with intention to violate the Act.

WHEREFORE, Respondents, RICHARD A. & DAVID J. KRUMHOLZ d/b/a KRUMHOLZ BROTHERS LANDSCAPING, pursuant to 415 ILCS 5/31.1 (2006), respectfully Petition the Pollution Patrol Board for review of the Administrative Citation filed against them in this cause, and pray the Board for such other and further relief as it deems just and proper.

RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS
LANDSCAPING, Respondents

By: 

One of Their Attorneys

PHILIP M. O'DONNELL
KINGERY DURREE WAKEMAN
& RYAN, ASSOC.
915 Commerce Building
416 Main Street
Peoria, Illinois 61602
Telephone: (309) 676-3612
Facsimile: (309) 676-1329

Verification

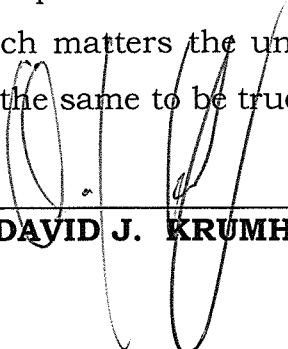
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned hereby certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned hereby certifies as aforesaid that he verily believes the same to be true.



RICHARD A. KRUMHOLZ

Verification

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned hereby certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned hereby certifies as aforesaid that he verily believes the same to be true.



DAVID J. KRUMHOLZ

NOTICE OF FILING

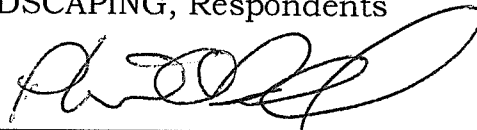
NOW COME the Respondents RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS LANDSCAPING by their attorney, PHILIP M.
O'DONNELL of KINGERY DURREE WAKEMAN & RYAN, ASSOC., and hereby
file this Notice with the attached document with the Pollution Control Board:

1. Petition for Review and Certificate for Service

A copy of this Notice was served upon all necessary parties by U.S. Mail on
July 7, 2009.

RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS
LANDSCAPING, Respondents

By: _____



One of Their Attorneys

PHILIP M. O'DONNELL
KINGERY DURREE WAKEMAN
& RYAN, ASSOC.
915 Commerce Building
416 Main Street
Peoria, Illinois 61602
Telephone: (309) 676-3612
Facsimile: (309) 676-1329

CERTIFICATE OF SERVICE

To: **Ms. Michelle Ryan, Assistant
Counsel Illinois Environmental
Protection Agency**
1021 North Grand Avenue Esate
P.O. Box 19276
Springfield, IL 62794-9276

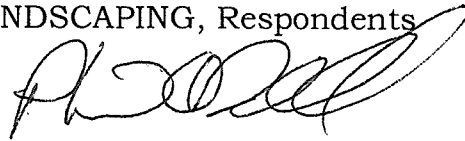
**Illinois Pollution Control Board
State of Illinois Center**
100 W. Randolph, Suite 11-500
Chicago, IL 60601

The undersigned hereby certifies that the appropriate copies of the following documents, along with a copy of this Certificate, was served upon the above individuals, in the above cause by hand delivery or by sealing a copy thereof in a postage prepaid envelope addressed as above set forth and deposited in the U.S. Mail at Peoria, Illinois on the 7 day of **JULY, 2009**.

1. Petition for Review.

RICHARD A. & DAVID J. KRUMHOLZ
d/b/a KRUMHOLZ BROTHERS
LANDSCAPING, Respondents

By: _____



One of Their Attorneys

PHILIP M. O'DONNELL
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