

ILLINOIS POLLUTION CONTROL BOARD

April 7, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 10-28
)	(IEPA No. 164-10-AC)
GARY J. and JAMES R. SZCZEBLEWSKI,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by G.T. Girard):

On June 4, 2010, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Gary J. and James R. Szczeblewski (the Szczeblewskis). *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 402 East Yung Road in Sesser, Franklin County. The property is commonly known to the Agency as the “Sesser/Szczeblewski, Gary J. and James R.” site and is designated with Site Code No. 0550455034.

On March 23, 2011, the Agency filed a motion for voluntary dismissal of the administrative citation. In the motion, the Agency states that “facts and circumstances discovered since the filing of the Administrative Citation indicate that it is appropriate to withdraw this Administrative Citation at this time.” Motion at 1. The Board grants the motion, dismisses the case, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2011, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
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Complainant,)
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v.)
)
GARY J. and JAMES R. SZCZEBLEWSKI,)
)
)
)
)
Respondents.)

AC 10-28
(IEPA No. 164-10-AC)

ORIGINAL

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 (2008).

FACTS

1. That Gary and James Szczebleski ("Respondents") are the current owners and operators of a facility located at 402 East Yung Road, Sesser, Franklin County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Sesser/Szczebleski, Gary J. and James R.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0550455034.
3. That Respondents have owned and operated said facility at all times pertinent hereto.
4. That on April 21, 2010, Maggie Stevenson of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion Regional Office inspected the above-described facility. A copy of

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

5. That on 6-2-10, Illinois EPA sent this Administrative Citation via Certified Mail No. 7008 1830 0001 4720 8049.

VIOLATIONS

Based upon direct observations made by Maggie Stevenson during the course of her April 21, 2010 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) (2008).
- (2) 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)(2008).
- (3) 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) (2008).

CIVIL PENALTY

On April 15, 2010, the Board found Gary J. and James R. Szczeblewski in violation of Section 21(p)(1) and Section 21(p)(7) of the Act in AC 09-56. Because this Administrative Citation addresses a second or subsequent violation of Sections 21(p)(1) and 21(p)(7) of the Act, pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondents are subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for each violation and pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the violation of Section 21(p)(3), for a total of Seven Thousand Five Hundred Dollars (\$7,500.00). 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 July 15, 2010, 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 (2008), 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) (2008), 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, 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, 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 (2008). 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.


Douglas P. Scott, Director
Illinois Environmental Protection Agency

Date: 6/1/2010

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

RECEIVED
CLERK'S OFFICE

JUN 04 2010

STATE OF ILLINOIS
Pollution Control Board

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(IEPA No. 164-10-AC)

ORIGINAL

FACILITY: Sesser/Szczablewski, Gary J. and James R.
SITE CODE NO.: 0550455034
COUNTY: Franklin
DATE OF INSPECTION: April 21, 2010
CIVIL PENALTY: \$7,500.00

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.