

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1995

COUNTY OF LASALLE,)	
)	
Complainant,)	
)	
v.)	AC 95-36
)	(County No. 95-01)
)	(Administrative Citation)
DAVE HERTZNER,)	
)	
Respondent.)	

ORDER OF THE BOARD:

This matter comes before the Board upon the June 2, 1995 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by LaSalle County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon Dave Hertzner on May 23, 1995. LaSalle County alleges that on May 11, 1995, Dave Hertzner present owner and/or operator of a facility located in LaSalle County and commonly known to the County as 1703 N 2525th Road, Ottawa, LaSalle County, Illinois violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

Dave Hertzner has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Dave Hertzner has violated the provision alleged in the Administrative Citation. Since there is (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Dave Hertzner shall, by certified check or money order payable to the County of LaSalle, Illinois, pay a penalty in the amount of \$500.00, which is to be sent to:

LaSalle County
Department of Solid Waste Management
119 West Madison Street
Ottawa, Illinois 61350

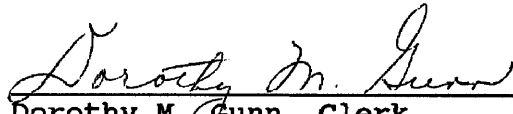
2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Numbers on the certified check or money order.

3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

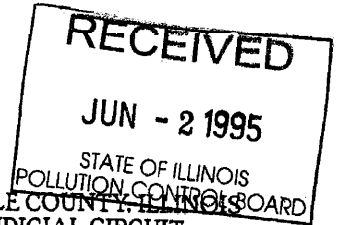
Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 20th day of July, 1995, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board

OFFICE OF THE STATE'S ATTORNEY

JOSEPH R. NAVARRO
State's Attorney



707 Etna Rd.
Room 251
Ottawa, IL 61350
Phone (815) 434-8340
FAX (815) 434-8357

REPLY TO: ROBERT M. ESCHBACH
STATE OF ILLINOIS 728 COLUMBUS STREET
OTTAWA, IL 61350
COUNTY OF LASALLE (815) 434-1600

ADMINISTRATIVE CITATION

COUNTY OF LASALLE

Complainant,

v.

DAVE HERTZNER

Respondent.

William Miller

Owner

)
)
) *DC 9536*
)
)
)
) AC NO. 95-01 - COUNTY
)
)
)

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 1/2, par. 1031.1, and delegated to the County of LaSalle pursuant to 415 ILCS 5/4 (r), formerly Ill. Rev. Stat. 1991, Ch. 111 1/2 par 1004 (r).

FACTS

1. That Respondent, Dave Hertzner, is the present renter of a property at 1703 N 2525th Road, City of Ottawa, in the County of LaSalle and the State of Illinois.

2. Mr. William Miller, is the present owner of the property at 1703 N. 2525th Road, City of Ottawa, in the County of LaSalle and the State of Illinois.
3. That said facility is an open dump, operating without an Illinois Environmental Protection Agency Permit, and designated with Site Code No. 0998310002. Said facility is commonly known to the Agency as Miller, William.
4. That Respondent, Mr. Dave Hertzner, has dwelled and/or rented said property at all times pertinent hereto.
5. That on May 11, 1995, Duane Swartzendruber, of the LaSalle County Department of Solid Waste Management, under the authority of the Illinois Environmental Protection Agency, inspected the above described property(residence). A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

6. On the basis of direct observation of Duane Swartzendruber, the LaSalle County Department of Solid Waste Management has determined that Respondent, Mr. Dave Hertzner, has caused or allowed open dumping at the above described facility in a manner which results in the following occurrences:

That on May 11, 1995 an on-site inspection of said facility disclosed the following:

- xx Causing or allowing litter 415 ILCS 5/21 (p) (1) (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et seq.)
- ___ Causing or allowing scavenging operations .415 ILCS 5/21 (p) (2) (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.)
- ___ Causing or allowing open burning 415 ILCS 5/21 (p) (3) (formerly Ill. Rev.. Stat. Ch.111 1/2, 1001 et seq.)
- ___ Causing or allowing deposition of waste in standing or flowing waters 415 ILCS 5/21 (p) (4) (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et seq.)
- ___ Causing or allowing proliferation of disease vectors. 415 ILCS 5/21 (p) (5) (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et seq.)

CIVIL PENALTY

7. Pursuant to 415 ILCS 5/42 (b) (4) (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et seq.),

Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph 6 for a total off \$ 500.00. 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 violations 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 Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

8. 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 for 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.

9. When payment is made, your check should be made payable to the **LASALLE COUNTY DEPARTMENT OF SOLID WASTE MANAGEMENT** and mailed to:

**LaSalle County Department of Solid Waste Management
119 West Madison Street
Room 400
Ottawa, Illinois 61350**

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

10. If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on 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 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**

11. You have the right to contest this Administrative Citation. See 415 ILCS 5/31.1, formerly Ill. Rev. Stat. 1991, Ch. 111 1/2, 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:


Robert M. Eschbach
LaSalle County Special Assistant State's Attorney
728 Columbus Street
Ottawa, Illinois 61350

LaSalle County Department of Solid Waste Management
LaSalle County Courthouse
119 West Madison Street
Room 400
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
State of Illinois Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

Dated: 5-23-95

Joseph Navarro
LaSalle County State's Attorney
By: 
Robert M. Eschbach
Special Assistant State's Attorney,
Environmental Matters

REMITTANCE FORM

COUNTY OF LASALLE,)	
)	
Complainant,)	
)	
v.)	AC 95-36
)	(County No. 95-01)
)	(Administrative Citation)
DAVE HERTZNER,)	
)	
Respondent.)	

FACILITY: 1703 N. 2525th RD

SITE CODE NO.: 0998310002

COUNTY: LaSalle

CIVIL PENALTY: \$500.00

DATE OF INSPECTION: May 23, 1995

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 LaSalle County, Department of Solid Waste Management, 119 West Madison Street, Ottawa, Illinois 61350