

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
) AC 2018-010
vs.)
) (IEPA No. 32-18-AC)
DG PARTNERS LLC, et al.,)
)
Respondents.)

NOTICE OF FILING

To:

Clifford M. Koltzenburg
116 Wabash Ave.
Carthage, IL 62321

Chris S. Koltzenburg
2260 Coal Road
Colchester, IL 62326

K&N Excavating
2405 E. U.S. Highway 136
Carthage, IL 62321

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following on behalf of DG Partners LLC and Cissell-Mueller Construction, Inc., a copy of which is herewith served on you: Entry of Appearance and Petition for Review of Administrative Citation.

Respectfully Submitted,

SUMMERS COMPTON WELLS LLC

Dated: _____

4-25-18

Caitlin Stayduhar

Caitlin L. Stayduhar, II #6311399

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Cissell-Mueller Construction, Inc.*

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ENTRY OF APPEARANCE

COME NOW Caitlin L. Stayduhar and the law firm of Summers Compton Wells LLC and enter their appearance on behalf of Respondents DG Partners LLC and Cissell-Mueller Construction, Inc.

Respectfully Submitted,

SUMMERS COMPTON WELLS LLC

Dated: _____

4-25-18

Caitlin Stayduhar

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PETITION FOR REVIEW OF ADMINISTRATIVE CITATION

COME NOW Respondents Cissell-Mueller Construction, Inc., and DG Partners LLC (“Respondents”) by and through their undersigned attorneys, and hereby petition the Illinois Pollution Control Board for a review of the above-cited Administrative Citation, Affidavit, and Open Dump Inspection Checklist (“Administrative Citation”) issued by the Illinois Environmental Protection Agency (“IEPA”) pursuant to 415 ILCS 5/31.1. Respondents assert that the Administrative Citation was improperly issued against Respondents for the reasons set forth herein:

1. On or about March 15, 2018, the IEPA filed its Administrative Citation alleging violations of the Illinois Environmental Protection Act at a property located southwest of the intersection of N. Co. Rd. 1700 and E. Co. Rd. 650, Carthage, Hancock County, Illinois (“the Koltzenburg Property”).

2. The Inspection Report attached to the Administrative Citation asserts that the alleged violations arose out of solid waste from demolition work at the former Hill-Dodge Bank in Warsaw, Illinois (“the Project Site”).

3. Respondent DG Properties LLC is the owner of the Project Site and Respondent Cissell-Mueller Construction, Inc. is the general contractor for the Project Site.

4. Respondents do not own, control, or operate business on the Koltzenburg Property.

5. Prior to receiving the Administrative Citation, Respondents had no knowledge of the alleged violations at the Koltzenburg Property.

6. Respondent Cissell-Mueller Construction, Inc. hired Respondent K&N Excavating to perform demolition work at the Project Site pursuant to a Subcontract Agreement ("the Subcontract Agreement").

7. The Subcontract Agreement specifically requires K&N Excavating to comply with all Federal, State, and local laws, ordinances, codes, rules and regulations applicable to the demolition work at the Project Site.

8. Respondents fully expected and required K&N Excavating to comply with the Illinois Environmental Protection Act in connection with the demolition work at the Project Site.

9. Upon notice that K&N Excavating had allegedly violated the Illinois Environmental Protection Act in connection with its demolition work at the Property, Cissell-Mueller Construction, Inc. notified K&N Excavating of its breach of the Subcontract Agreement.

10. The alleged violations were the result of uncontrollable circumstances, as demonstrated by the foregoing facts.

11. Respondents did not intentionally cause or allow the alleged violations, as demonstrated by the foregoing facts.

12. Respondents have demanded that K&N Excavation correct the alleged violations alleged in the Administrative Citation and stand ready to cooperate with all required inspections and remediation requirements.

13. Respondents have never been subject to a prior administrative citation.

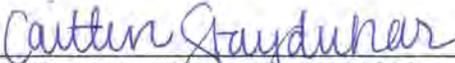
14. The imposition of the \$6,000.00 penalty as proposed would result in an arbitrary or unreasonable financial hardship for Respondents in light of the foregoing facts.

WHEREFORE, Respondents DG Partners LLC and Cissell-Mueller Construction, Inc. request that the Administrative Citation filed herein be dismissed, or, alternatively, a hearing before the Illinois Pollution Control Board in order to contest the Administrative Citation, and such other further relief as the Board deems proper.

Respectfully Submitted,

SUMMERS COMPTON WELLS LLC

Dated: 4-25-18


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