



OFFICE OF STATE'S ATTORNEY

Perry County, Illinois

1 Public Square – Perry County Courthouse

Pinckneyville, Illinois 62274

Telephone: (618) 357-6221 / Facsimile: (618) 357-3923

DAVID N. STANTON
State's Attorney

MARTIN M. BELTZ
DAVID H. SEARBY, JR.
Assistant State's Attorneys

July 9, 2014



ORIGINAL

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JUL 14 2014

STATE OF ILLINOIS
Pollution Control Board

Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

AC15-4

RE: Administrative Citation – Perry County/Burgess, Edward J
Site Code: 1458385002
Inspection Date: June 18, 2014

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Edward J. Burgess.

I will file proof of service once that is obtained on Respondent. Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,

David Searby
Assistant State's Attorney
Perry County, Illinois

Enclosures

cc: Rebecca Tracy, Perry County Solid Waste w/enclosures
IEPA Springfield (Ellen Robinson w/enclosures)
IEPA Marion (Sheila Williams w/enclosures)
Village of Tamaroa w/enclosures

David Searby
Assistant State's Attorney
Perry County, Illinois

Rebecca Tracy
IEPA Springfield

Rebecca Tracy
IEPA Springfield

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Edward J. Burgess,)
)
 Respondent.)

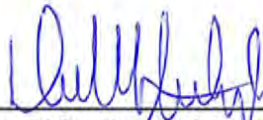
15-4
AC 14-___

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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Edward J. Burgess, 540 East 2nd South Street, Tamaroa, IL 62888

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.



David Searby, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618) 357-6221

DATED: July 9, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE
JUL 14 2014
STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
Complainant,)
)
vs.)
)
Edward J. Burgess,)
)
Respondent.)

15-4
AC 14- _____

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of Perry.



David Searby, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618) 357-6221

DATED: July 9, 2014

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Edward J. Burgess,)
)
 Respondent.)

15-4
AC 14 -

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Pollution Control Board

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. Seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Edward J. Burgess , is the present owner; and is in control and possession of a facility located in the County of Perry, State of Illinois.
2. The facility is an open dump and designated with the Site Code #14583850023. The facility is known to the Agency as the Tamaroa/Burgess, Edward J site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On June 18, 2014, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on June 18, 2014, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than October 1, 2014, unless otherwise provided by order of the Illinois Pollution control Board.

If Respondent elects 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 (2006), and if the Illinois Pollution Control Board issues a finding of violations(s) as 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. Those hearing costs shall be assessed in addition to the Fifteen Hundred Dollars (\$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), if Respondent fails to petition or elects 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 a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) Perry County Solid Waste, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Respondent from the date payment is due up to and including the date that payment is received. The Complainant may initiate proceedings against Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with David Searby, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. Your petition must state the reason(s) you believe the present matter should not be issued. If you fail to file your petition and state the reasons the present matter should not be issued, a default order against you will be entered by the Illinois Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk, Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, David Searby
Assistant State's Attorney
Perry County Courthouse
Pinckneyville, IL 62274



David Searby, Assistant State's Attorney
Perry County, Illinois

DATE: July 9, 2014

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Edward J. Burgess,)
)
 Respondent.)

15-4
AC 14 -

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JUL 14 2014
STATE OF ILLINOIS
Pollution Control Board

FACILITY: Tamaroa/Burgess, Edward J

COUNTY: Perry

DATE OF INSPECTION: June 18, 2014

SITE CODE: 1458385002

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Perry County Solid Waste
c/o Perry County Treasurer
Perry County Government Building
3764 State Route 13/127
Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

JUL 14 2014

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
 Complainant,) AC 14- 15-4
)
 vs.)
)
 Edward J. Burgess,)
)
 Respondent.)

FACILITY: Tamaroa/Burgess, Edward J

COUNTY: Perry

DATE OF INSPECTION: June 18, 2014

SITE CODE: 1458385002

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Illinois Environmental Protection Agency
Attention: Fiscal Services
PO Box 19276
Springfield, IL 62794-9276

RECEIVED
CLERK'S OFFICE

JUL 14 2014

STATE OF ILLINOIS
Pollution Control Board

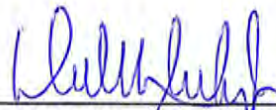
PROOF OF SERVICE

I hereby certify that I did on the 9 day of July 2014, transmit to the Perry County Sheriff's Department a true and correct copy of the following instruments(s) entitled ADMINISTRATIVE CITATION, AFFIDAVITS, OPEN DUMP INSPECTION CHECKLIST, OPEN DUMP NARRATIVE, SITE SKETCH AND PHOTO SHEETS, which will be served upon the following:

To: Edward J. Burgess
540 East 2nd South Street
PO Box 183
Tamaroa, IL 62888

And the original and nine (9) true and correct copies of the same foregoing instruments on the same date by certified mail return receipt requested, with postage thereon fully prepaid

To: Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218



David Searby, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

RECEIVED
CLERK'S OFFICE

JUL 14 2014

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY
AFFIDAVIT

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

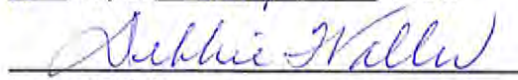
COUNTY OF PERRY)	
)	
Complainant,)	15-4 AC 14 - _____
)	
vs.)	
)	
Edward J. Burgess,)	
)	
Respondent.)	

Affiant, Rebecca Tracy, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Perry County Solid Waste Management Department and has been so employed at all times pertinent hereto.
2. On June 18, 2014 at 10:57 a.m., Affiant conducted an inspection of the open dump site known as Tamaroa/Burgess, Edward J, Perry County, Illinois. Said site has been assigned Site Code No. 1458385002.
3. Affiant inspected said open dump site by an on-site inspection.
4. As a result of the activities referred to in Paragraphs 2 and 3 above, Affiant completed the Open Dump Inspection Checklist and Narrative Inspection Report 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 the open dump site known as Tamaroa/Burgess, Edward J.


 REBECCA TRACY, Environmental Compliance Inspector

Subscribed and Sworn to before me this
10th day of JULY, 2014.


 Notary Public



LPC # 1458385002

Inspection Date: 06/18/2014

9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input checked="" type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
10.	55(k)	NO PERSON SHALL:	
	(1)	Cause or Allow Water to Accumulate in Used or Waste Tires	<input type="checkbox"/>
	(4)	Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements	<input type="checkbox"/>
ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT REQUIREMENTS			
11.	95(a)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A COVERED ELECTRONIC DEVICE (CED) OR OTHER LISTED DEVICE WITH MUNICIPAL WASTE THAT IS INTENDED FOR DISPOSAL AT A LANDFILL	<input type="checkbox"/>
12.	95(b)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE DISPOSAL OF A CED OR OTHER LISTED DEVICE IN A SANITARY LANDFILL	<input type="checkbox"/>
13.	95(c)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A CED OR OTHER LISTED DEVICE WITH WASTE THAT IS INTENDED FOR DISPOSAL BY BURNING OR INCINERATION	<input type="checkbox"/>
14.	95(d)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE BURNING OR INCINERATION OF A CED OR OTHER LISTED DEVICE	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
15.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
16.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
17.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
18.	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"/>
19.	815.201	FAILURE TO FILE AN INITIAL FACILITY REPORT WITH THE AGENCY TO PROVIDE INFORMATION CONCERNING LOCATION AND DISPOSAL PRACTICES OF THE FACILITY	<input type="checkbox"/>
OTHER REQUIREMENTS			
20.		APPARENT VIOLATION OF: () PCB; () CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
21.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/1 et seq.; and The Electronic Products Recycling and Reuse Act: 415 ILCS 150/5 et seq.
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, subsection (k) of Section 55 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of that Act or by complaint under Section 31 of that Act. Violation of the Electronic Products Recycling and Reuse Act shall be enforceable by administrative citation under Section 20(k) of that Act, or referral to the Attorney General, pursuant to Section 20(a) of that 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); and Section 20(a) of the Electronic Products Recycling and Reuse Act: 415 ILCS 150/20(a).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

**Perry County Solid Waste Management Department
Narrative Inspection Report**

Site #: 1458385002

Date: 06/18/2014

County: Perry

Inspector: Rebecca Tracy

**Subject: Edward J. Burgess
540 East 2nd South Street
PO Box 183
Tamaroa, IL 62888**

**Site Address: 540 East 2nd South Street
Tamaroa, IL 62888**

On June 18, 2014, an inspection was performed at 540 East 2nd South Street, Tamaroa, IL 62888. The weather conditions were 87 degrees. The inspection was performed as a compliance inspection.

The information obtained from the Perry County Assessor's office indicates that the owner of the property is Edward J. Burgess, 540 East 2nd South Street, PO Box 183, Tamaroa, IL 62888. The property index number is 2-41-0560-310.

I arrived at the site at 10:57 a.m. As depicted in Photo 001, the yard is covered with open dumped used/waste tires and open dumped litter, debris and refuse. The property is a nuisance and has an irrefutable unsightly appearance.

I left the site at 10:57 a.m.

DISCUSSION:

The Burgess property is being used to collect and store litter, debris, refuse and used/waste tires. It appears that Burgess residence is being used as a repair or mechanical business/hobby and although the Burgess' should be allowed to conduct repairs, whether as a hobby or business, they are still subject to the Illinois Environmental Protection Act; more specifically, Section 21(a) which prohibits causing or allowing open dumping; 21(p)(1) which prohibits causing or allowing the open dumping of any waste in a manner which results in litter; and, 55(a) which prohibits causing or allowing the open dumping of any used or waste tire.

Further, they are subject to the Illinois Pollution Control Board's regulations wherein anyone who collects scrap or other materials for salvage, recycling or selling are then subject to Section 810.103 which states that the materials must be separated by type and stored in a manner that does not create a nuisance, harbor vectors or cause an unsightly appearance.

Further, the open dumping of materials “in the anticipation of some future use at some undefined time” is not acceptable. (INTERIM OPINION AND ORDER OF THE BOARD, June 6, 2002, IEPA v. Yocum, AC 01-29 and IEPA v. Yocum, AC 01-30).

VIOLATIONS:

ILLINOIS ENVIRONMENTAL PROTECTION ACT

21(a) No Person Shall Cause or Allow Open Dumping

21(p) No Person Shall Cause or Allow the Open Dumping of Any Waste in a Manner Which Results in any of the Following Occurrences at the Dump Site:

(1) Litter

55(a) No Person Shall:

(1) Cause or Allow Open Dumping of Any Used or Waste Tire



DIGITAL PHOTOGRAPHS



Date: 06/18/2014
Time: 10:57 a.m.
Direction: Northwest
Photo by: R. Tracy
Exposure #: 001
Comments: open
dumped debris

SITE SKETCH

Date of Inspection: 06/18/2014

Time: 10:57 a.m.

Site Code: 1458385002

Site Name: Tamaroa/Burgess, Edward J

County: Perry

Inspector: Rebecca Tracy

Est. Waste Volume: 30 cubic yards

Previous Inspection: 09/17/2013

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STATE OF ILLINOIS
Pollution Control Board



Not Drawn to Scale / All Location Approx. / photo direction →