

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 28 2004

STATE OF ILLINOIS
Pollution Control Board

CITY OF CHICAGO DEPARTMENT
OF ENVIRONMENT,)

Complainant,)

v.)

GENE EVANS)

Respondent.)

SITE CODE: 0316265118

AC 04-88

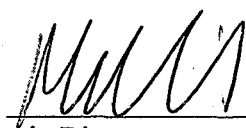
(CDOE No. 04-09-AC)

NOTICE OF FILING

To: Gene Evans

PLEASE TAKE NOTICE that on June 28, 04, we caused the attached Administrative Citation to be filed with the Clerk of the Illinois Pollution Control Board.

CITY OF CHICAGO
DEPARTMENT OF ENVIRONMENT

By: 
Maggie Rice
Deputy Commissioner
Permitting and Enforcement Division

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ADMINISTRATIVE CITATION

Violation:

415 ILCS 5/21(p)(1)

Civil Penalty:

\$1,500.00

TOTAL: \$1,500.00

Facts

For this Administrative Citation to **Gene Evans** ("EVANS"), the City of Chicago Department of Environment ("CDOE") states as follows:

1. Complainant, CDOE, is a unit of local government to which the Illinois Environmental Protection Agency has delegated authority to issue administrative citations pursuant to Section 4(r) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(r) (2004). CDOE is thus a "delegated unit" and may issue administrative citations under 35 Ill. Adm. Code 108.200.

2. Respondent EVANS is an Illinois resident.

3. On May 5, 2004, CDOE inspector Lafayette Robertson inspected 4401 W. 5th Street. A copy of his inspection report is attached as Exhibit 1 and made a part of this Administrative Citation. Inspector Robertson found an unmarked unlicensed tractor trailer full of waste staged on the public way. The waste within the tractor trailer was open to and visible by the public. Respondent EVANS told Inspector Robertson that Respondent EVANS towed the tractor trailer full of waste to the City street.

4. Based upon direct observations made by Mr. Robertson during the course of his inspection, CDOE has determined that Respondent violated the Act as follows:

a. Respondent caused or allowed the open dumping of waste in a manner resulting in litter, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

5. Mr. Robertson's affidavit, attesting to his material actions and observations, is attached as Exhibit 2 and made a part of this Administrative Citation.

6. Based upon the foregoing facts, under Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the four violations identified above, for a total civil penalty of **One Thousand Five Hundred Dollars (\$1,500.00).**

Notices and Instructions to Respondent

1. **You must pay the civil penalty set forth above unless you contest this Administrative Citation.** The following paragraphs contain payment instructions and more information about contesting this Administrative Citation.

2. To pay the civil penalty (and any other amounts due) send a check or money order, payable to the City of Chicago, to:

City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, Illinois 60602

To ensure that you receive timely and proper credit for your payment, complete a Remittance Form (see Exhibit 3, attached) and include it with your payment.

3. You may contest this Administrative Citation by filing a Petition for Review, including a Notice of Filing, Certificate of Service, and Appearance, with the Illinois Pollution Control Board ("Board").

4. **Any Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation on you. The Board will not review the Administrative Citation if the Petition for Review is not filed within this time.**

5. The Petition for Review must be filed with:

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

A copy of the Petition for Review must be served on CDOE, at the following address:

City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, Illinois 60602

6. The contents of a Petition for Review and the procedures to be followed are governed by the Board's procedural rules. Copies may be obtained from the Clerk of the Board at the address above, by calling the Board at (312) 814-3620, or from the Board's web site at:

<http://www.ipcb.state.il.us/rules/procedural/procedural.htm>

7. If you do not contest this Administrative Citation by filing a petition for review with the Board within the allotted time, the Board will enter an order finding that you committed the violations alleged above and imposing the statutory civil penalty set forth above. See Section 31.1(d) of the Act, 415 ILCS 5/31.1(d) (2004), and 35 Ill. Adm. Code 108.500(a).

8. If you contest this Administrative Citation by filing a timely petition for review with the Board, the Board will hold a hearing. The Board's procedural rules have more information on hearings; see 35 Ill. Adm. Code Parts 101 and 108.

9. If the Board finds after the hearing that you committed a violation as alleged above, you will be assessed the hearing costs incurred by CDOE and the Board. Hearing costs are assessed in addition to the statutory civil penalty for the violations. If the Board finds after the hearing that you did not commit a violation as alleged above, or that the violation resulted from uncontrollable circumstances, you will not be assessed hearing costs and you will not have to pay a civil penalty.

10. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, interest on the amount due will be assessed against you from the date payment is due and including the date that payment is received.

11. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, the Office of the Illinois Attorney General and/or the City of Chicago Department of Law may initiate court proceedings against you to collect the amount due, plus any interest accrued. In that event you may also be liable for court costs.

Date: 6/27/04

CITY OF CHICAGO
DEPARTMENT OF ENVIRONMENT

By:

N. Marcia Jimenez
N. Marcia Jimenez
Commissioner

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CITY OF CHICAGO DEPARTMENT
OF ENVIRONMENT,

Complainant,

v.

GENE EVANS

Respondent.

SITE CODE: 0316265118

AC

(CDOE No. 04-09-AC)

AFFADAVIT

State of Illinois)

County of Cook)

ss.:


Affiant, Lafayette Robertson, being duly sworn, voluntarily deposes and states as follows:

1. At all times relevant to the above-captioned Administrative Citation, Affiant was employed as a senior environmental inspector by the City of Chicago Department of Environment.

2. On May 5, 2004 between 3:00 p.m. and 3:40 p.m., Affiant conducted an inspection of the northern portion of the property at 4401 West Fifth Avenue, Chicago, Illinois.

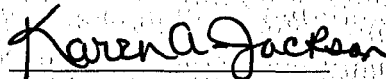
3. Affiant conducted an onsite inspection, which included walking around the site and photographing the site. After the inspection, Affiant spoke with EVANS about his findings.

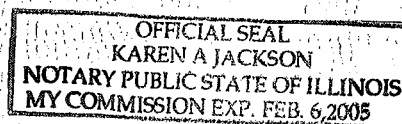
4. In connection with this inspection and subsequent conversation, Affiant completed the Inspection Report appended to and made part of the above-captioned Administrative Citation, which is an accurate record of Affiant's observations and factual conclusions with respect to this site.


Lafayette Robertson

Subscribed and sworn before me

This 24th day of June, 2004.


Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: COOK, CHICAGO LPC#: 0316265118 Region: 2

Location/Site Name: 4401 W. Fifth AVE. / Vacant Lot

Date: 5-5-04 Time: From 3:00p.m. To 3:40p.m. Previous Inspection Date: FIRST

Inspector(s): L. ROBERTSON Weather: clear, Sunny

No. of Photos Taken: # 2 Est. Amt. of Waste: 80 yds³ Samples Taken: Yes# No X

Interviewed: Ed Smith Complaint #:

Responsible Party
Mailing Address(es) and
Phone Number(s):

Operator: Gene Evans
4645 W. Harrison St.
Chicago, IL 60644
NO PHONE

| | SECTION | DESCRIPTION | VIOL. |
|---|---------|--|-------|
| ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS | | | |
| 1. | 9(a) | CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS | |
| 2. | 9(c) | CAUSE OR ALLOW OPEN BURNING | |
| 3. | 12(a) | CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS | |
| 4. | 12(d) | CREATE A WATER POLLUTION HAZARD | |
| 5. | 21(a) | CAUSE OR ALLOW OPEN DUMPING | X |
| 6. | 21(d) | CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION: | |
| | (1) | Without a Permit | X |
| | (2) | In Violation of Any Regulations or Standards Adopted by the Board | X |
| 7. | 21(e) | DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT AND REGULATIONS | X |
| 8. | 21(p) | 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 | X |
| | (2) | Scavenging | |
| | (3) | Open Burning | |
| | (4) | Deposition of Waste in Standing or Flowing Waters | |
| | (5) | Proliferation of Disease Vectors | |

| | | | |
|--|---------------|---|--|
| | (6) | Standing or Flowing Liquid Discharge from the Dump Site | |
| 9. | 55(a) | NO PERSON SHALL: | |
| | (1) | Cause or Allow Open Dumping of Any Used or Waste Tire | |
| | (2) | Cause or Allow Open Burning of Any Used or Waste Tire | |
| 35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G | | | |
| 10. | 812.101(a) | FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL | |
| 11. | 722.111 | HAZARDOUS WASTE DETERMINATION | |
| 12. | 808.121 | SPECIAL WASTE DETERMINATION | |
| 13. | 809.302(a) | ACCEPTANCE OF SPECIAL WASTE FROM A WASTE HAULER WITHOUT A WASTE HAULING PERMIT AND/OR MANIFEST | |
| OTHER REQUIREMENTS | | | |
| 14. | | APPARENT VIOLATION OF: () PCB; () CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON: | |
| 15. | OTHER: | 21(P) (7) DEPOSITION OF GENERAL CONSTRUCTION OR DEMOLITION DEBRIS;OR CLEAN CONSTRUCTION OR DEMOLITION DEBRIS . | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

L. Roberts

Signature of Inspector(s)

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
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 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the 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).
6. Items marked with an "NE" were not evaluated at the time of this inspection.
7. Statutory effective date: through 1/8/97.
8. Regulatory effective date: through 12/20/94.

City of Chicago
Department of Environment
Narrative

Date: 05-05-04
Site: 4401 W. Fifth Ave.
Site Code: 0316 265/18

Time: 3:00p.m.-3:40p.m.
Investigators: L. Robertson
County: Cook-Chicago

In Summary: Investigator monitoring the above address for dumping of abandoned truck trailers.

- At the time of my inspection I did observed an abandoned truck trailer on the public way at the above address .
- I spoke with the area business men and was informed that Mr Gene Evans of 4645 W. Harrison Street, dumped the trailer full of garbage onto the public way. I later spoke with Mr. Evans, who stated he did fill up the trailer with the above waste and tow the unmarked trailer with no vehicle plates onto the public way .
- Mr. Evans stated he will clean the garbage from the trailer and remove it from the public way to a site he did not disclose .
- I issued an N.O.V.#E000007691 for M.C. violations of 7-28-440 & 11-4-1500. The hearing date is pending for 07-15-04 . See the attachments .
- **Note: The Dept. of Street and Sanitation cleaned and removed the trailer and its garbage contents on the week of 05-17-04 .**

I, L. Roberts, an employee of the City of Chicago Department of Environment, certify that I have conducted an inspection of the above referenced property on the date indicated. I further certify that the observations set forth in this report are true and accurate.

22
Insp. #

L. Roberts
Signature



[Send To Printer](#) [Back to Map](#)

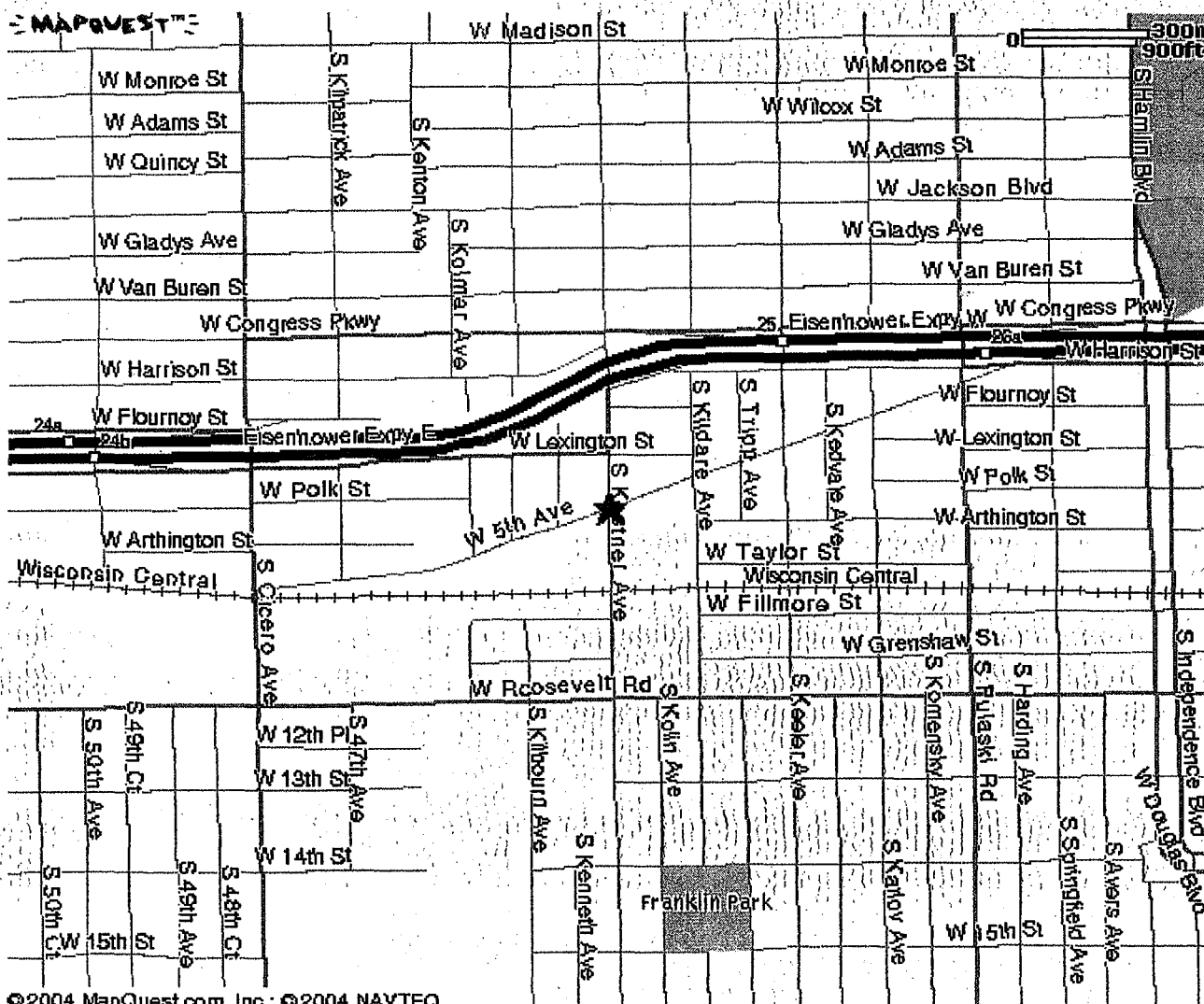
4401 W 5th Ave
Chicago IL
60624-3405 US

Notes:

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W

W. FIFTH AVE

KOSTNER AVE

ABANDONED
TRAILER

Not to Scale
All Boundaries are Approximate



SITE SKETCH

CITY OF CHICAGO
DEPARTMENT OF ENVIRONMENT
FIELD OPERATIONS DIVISION

| | |
|---------------|---------------------|
| DATE: | 5-5-04 |
| TIME: | 3:00 PM - 3:40 PM |
| SITE ADDRESS: | 4401 W. FIFTH AVE |
| SITE CODE: | 0316265118 |
| INSPECTOR: | L. ROBERTSON |
| COUNTY: | COOK COUNTY/CHICAGO |

CITY OF CHICAGO
DEPARTMENT OF ENVIRONMENT
PHOTOGRAPHS

DATE:

5-5-04

TIME: 3:00 PM - 3:40 PM

SITE:

4401 W. FIFTH AVE.

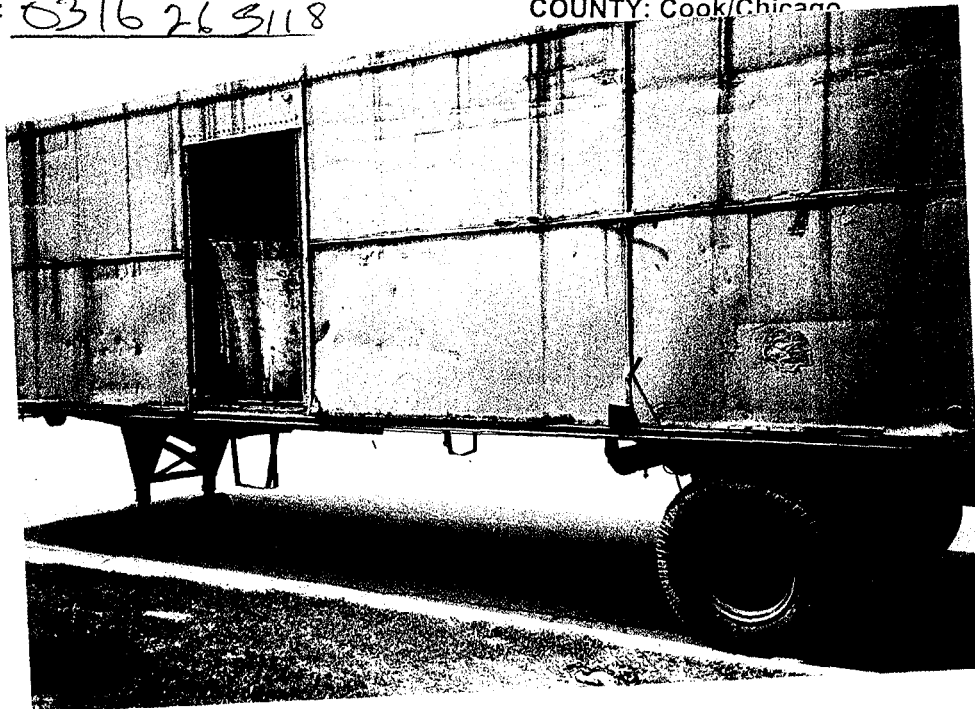
INSPECTOR:

L. ROBERTSON

SITE CODE:

0316263118

COUNTY: Cook/Chicago



Roll #:

7740

Photo #:

1

Direction:

NW

Comments:

Side View of ABANDONED Trailer



Roll #:

7740

Photo #:

2

Direction:

W

Comments:

Garbage Loaded in ABANDONED Trailer

City of Chicago Department of Environment
Permitting and Enforcement Division
30 North LaSalle Street
Suite 2500
Chicago, IL 60602