

ILLINOIS POLLUTION CONTROL BOARD

April 4, 1996

LASALLE COUNTY,)
)
 Complainant,)
)
 v.) AC 96-35
) (Administrative Citation)
 CSX TRANSPORTATION, INC.,)
)
 Respondent.)

ORDER OF THE BOARD:

This matter comes before the Board upon the January 19, 1996 filing of an administrative citation pursuant to Section 31.1 of the 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 CSX Transportation, Inc. (CSX) on January 23, 1996. LaSalle County alleges that on December 6, 1995 CSX, present owner and/or operator of a facility located in LaSalle County and commonly known to the county as CSX Transportation, Inc (IEPA Site No. 0990805032), violated Sections 21(p)(1) and 21(p)(3) of the Act. The statutory penalty established for each violation is \$500 pursuant to Section 42(b)(4) of the Act.

CSX 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 CSX has violated the provision alleged in the administrative citation. Since there are two (2) such violations, the total penalty to be imposed is set at \$1,000.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order CSX shall, by certified check or money order payable to the County of LaSalle, Illinois, pay a penalty in the amount of \$1,000 which is to be sent to:

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

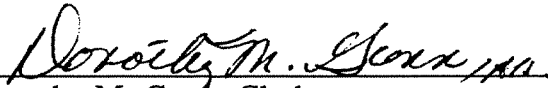
2. Respondent shall include the remittance form and write the case name and number and their social security or federal employer identification numbers on the certified check or money order.

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

IT IS SO ORDERED.

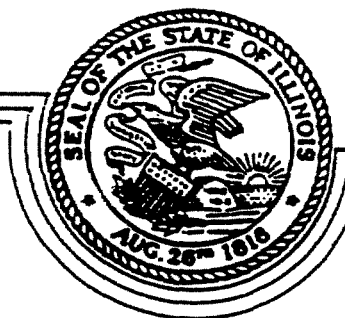
Section 41 of the Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 4th day of April, 1996, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

RECEIVED
CLERK'S OFFICE
JAN 19 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

OFFICE OF THE STATE'S ATTORNEY



LASALLE COUNTY, ILLINOIS
13TH JUDICIAL CIRCUIT

JOSEPH R. NAVARRO
State's Attorney

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

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

STATE OF ILLINOIS

COUNTY OF LASALLE

ADMINISTRATIVE CITATION

COUNTY OF LASALLE

Complainant,

v.

CSX Transportation, Inc.

Respondent.

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AC NO. 96-35

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., Ch. 111 1/2 par 1004 (r).

FACTS

1. That Respondent, CSX Transportation, Inc., is the present owner and/or operator of

the railroad facility located west of Boyce Memorial Drive down the access road south of the railroad crossing at Boyce Memorial Drive. Said property is also described as the railroad property located in the central part of Section 9, Township 33 North, Range 3 East, located in Ottawa Township, County of LaSalle and the State of Illinois.

2. That said facility is an open dump, operating without an Illinois Environmental Protection Agency Permit, and designated with Site Code No. 0990805032. Said facility is commonly known to the Agency as CSX Transportation, Inc.

3. That Respondent has owned and/or operated said facility at all times pertinent hereto.

4. That on December 6, 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 facility. A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

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

That on December 6, 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. 1991, ch. 111 1/2, par. 1021 (p) (1) [formerly 1021 (q)(1)]).

_____ Causing or allowing scavenging operations (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021 (p) (2) [formerly 1021 (q)(2)]).

XX Causing or allowing open burning (Ill. Rev. Stat. 1991 ch. 111 1/2, par. 1021 (p)(3) [formerly 1021 (q)(3)]).

_____ Causing or allowing the deposition of waste in standing or flowing waters 415 ILCS 5/21 (q) (4), (formerly Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021 (p)(4) [formerly 1021 (q)(4)]).

_____ Causing or allowing proliferation of disease vectors (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021 (p)(5) [formerly 1021 (q)(5)]).

_____ Causing or allowing the generation of standing or flowing liquid discharge from the open dump site 415 ILCS 5/21 (p) (6), (formerly Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021 (p)(6) [formerly 1021 (q)(6)]).

CIVIL PENALTY

6. Pursuant to 415 ILCS 5/42 (b) (4), formerly Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1042 (b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph 5 for a total of \$1000.00. 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.

7. 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.

8. 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.

9. 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**

10. 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 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: 1-15-96

Joseph Navarro
LaSalle County State's Attorney
By: 
Robert Eschbach
Assistant State's Attorney

INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: THIS ADMINISTRATIVE CITATION REFERS TO ONE STATE OF ILLINOIS AGENCY AND TWO COUNTY ENTITIES. THE ONE STATE AGENCY IS THE ILLINOIS POLLUTION CONTROL BOARD LOCATED AT: STATE OF ILLINOIS CENTER, 100 WEST RANDOLPH STREET, SUITE 11-500, CHICAGO, ILLINOIS 60601. THE COUNTY ENTITIES ARE THE LASALLE COUNTY STATES ATTORNEY OFFICE, ATTENTION ROBERT M. ESCHBACH 728 COLUMBUS STREET, OTTAWA, ILLINOIS 61350. THE OTHER IS THE LASALLE COUNTY DEPARTMENT OF SOLID WASTE MANAGEMENT 119 WEST MADISON, ROOM 400, OTTAWA, ILLINOIS 61350.

IF YOU ELECT TO CONTEST THE ENCLOSED ADMINISTRATIVE CITATION, YOU MUST FILE A **PETITION FOR REVIEW** WITHIN THIRTY-FIVE DAYS OF THE DATE THE ADMINISTRATIVE CITATION WAS SERVED UPON YOU. ANY SUCH PETITION FOR REVIEW MUST BE FILED WITH THE CLERK OF THE ILLINOIS POLLUTION CONTROL BOARD BY EITHER HAND-DELIVERING OR MAILING THE PETITION FOR REVIEW TO THE **CLERK** OF THE ILLINOIS POLLUTION CONTROL BOARD AT THE ADDRESS GIVEN ABOVE. A COPY OF THE PETITION FOR REVIEW SHOULD BE EITHER HAND-DELIVERED OR MAILED TO THE LASALLE COUNTY STATE ATTORNEY'S OFFICE, ATTENTION ROBERT M. ESCHBACH AT THE ADDRESS GIVEN ABOVE. ALSO, A COPY OF THE PETITION FOR REVIEW SHOULD BE EITHER HAND-DELIVERED OR MAILED TO THE LASALLE COUNTY DEPARTMENT OF SOLID WASTE MANAGEMENT AT THE ADDRESS GIVEN ABOVE.

STATE OF ILLINOIS
COUNTY OF LASALLE

COUNTY OF LASALLE)
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Complainant,)
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v.)
)
CSX Transportation, Inc.)
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Respondent.)

AC NO. County 76-01

AFFIDAVIT

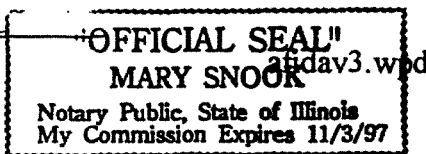
Affiant, Duane Swartzendruber, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the County of LaSalle and has been so employed at all times pertinent hereto.
2. On December 6, 1996, between 2:55 p.m. and 4:15 p.m., Affiant conducted an inspection of a open dump site operated without an Agency permit, located in LaSalle County, Illinois and known as CSX Transportation, Inc. by the Illinois Environmental Protection Agency. Said site has been assigned site code number 0990805032 by the Agency.
3. Affiant inspected said CSX Transportation, Inc. open dump site by an on-site inspection which included walking and photographing the site.
4. As a result of the material actions referred to in paragraph 3 above, Affiant completed the inspection report form 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 said CSX Transportation, Inc. open dump site.

Duane Swartzendruber
Duane Swartzendruber, LaSalle County

Subscribed and Sworn to Before Me
this 12 day of Jan, 1996.

Mary Snook
Notary Public



BEFORE THE

ILLINOIS POLLUTION CONTROL BOARD

County of LaSalle)
)
 Complainant,)
)
 v.)
)
 CSX Transportation, Inc.)
)
 Respondent.)

AC NO. County 96-01

REMITTANCE FORM

FACILITY: CSX Transportation, Inc. **Site Code:** 0990805032
 Boyce Memorial Drive **County:** LaSalle
 Ottawa, Illinois 61350

Attn. Paul J. Kurzanski
 500 Water Street
 Jacksonville, Florida 32202

CIVIL PENALTY: \$500.00 for each violation

Number of Violation(s): two (2)

Total Remittance: \$1000.00

Date of Inspection: December 6, 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
Room 400
Ottawa, Illinois 61350