

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 23 2005

STATE OF ILLINOIS
Pollution Control Board

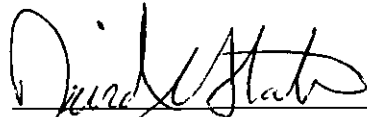
County of Perry,)
)
 Complainant,)
)
 v.)
)
 Joseph Gassell,)
)
 Respondent.)

County AC #: PC-05-012

ACC06-06

APPEARANCE

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



David N. Stanton
Perry County State's Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**
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STATE OF ILLINOIS
Pollution Control Board

County of Perry,)
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 Complainant,)
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 Joseph Gassell,)
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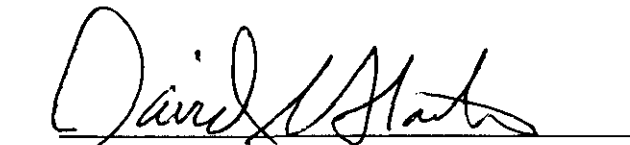
County AC #: PC-05-012

Ac 06-06

NOTICE OF FILING

TO: Joe Gassell
489 Cherry Lake Road

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 N. Stanton
Perry County State's Attorney

August 12, 2005

Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

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CLERK'S OFFICE

AUG 23 2005

STATE OF ILLINOIS
Pollution Control Board

County of Perry,)
)
Complainant,)
)
v.)
Joseph Gassell,)
)
Respondent.)

County AC #: PC-05-012

AC 05-012

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1996), specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent is the present occupant and in control and possession of a facility located in the County of Perry, State of Illinois.
2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code #1450105065. The facility is known to the Agency as the Joe Gassell Residence.
3. The Respondent has occupied, controlled and/or operated the facility at all relevant times hereto.
4. On August 1, 2005, Field Inspector, Jon Gregory, inspected the facility. A true and correct copy of the inspection report, along with a signed affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector Jon Gregory's direct observation during the course of his August 1, 2005 inspection of the above named facility, he 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:

(1) That respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21 (p)(1) (2002).

CIVIL PENALTY

In accordance with 415 ILCS 5/42 (b)(4), the Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each violation specified above in paragraph 1, for a total of One Thousand Five Hundred Dollars (\$1,500.00). This is total of One Thousand Five Hundred Dollars (\$1,500.00) for this Citation. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described below, after an adjudicatory hearing, the Respondent shall be assessed the hearing costs incurred by the Pollution Control Board. The hearing cost would be in addition to the One Thousand Five Hundred Dollars (\$1,500.00) fine.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2002), if Respondents fail to petition or elect 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 findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, your check should be made payable to the Perry County's Treasurer Office and mailed to the attention of Bill Taylor, Perry County Treasurer, Perry County Government Building, P.O. Box 158, Pinckneyville, Illinois, 62274. Also, please

complete and return the enclosed remittance form, along with your payment, to assure proper credit.

If any civil penalty is not paid within the prescribed time, the law allows for the accumulation and payment of interest on the remaining unpaid balance. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and interest, if any, the Perry County State's Attorney may seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall be filed with the Perry County State's Attorney office. **Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.**

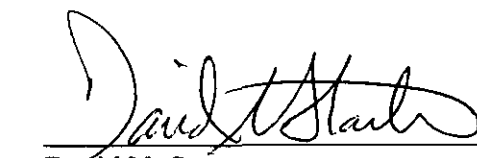
Your original Petition must be filed with the Clerk of the Board at:

The Honorable Dorothy Gunn, Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601

A copy must also be sent to:

Office of the State's Attorney
David Stanton
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274

DATED: August 12, 2005



David N. Stanton
Perry County State's Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 23 2005

STATE OF ILLINOIS
Pollution Control Board

County AC#: PC-05-012

AC 06-06

COUNTY OF PERRY)
)
Complainant,)
)
v.)
)
Joseph Gassell)
)
Respondent.)

AFFIDAVIT

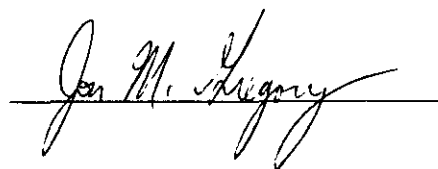
Affiant, Jon M. Gregory, being first duly sworn, voluntarily deposes and states as follows:

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 August 1, 2005, between 8:10 a.m. and 8:17 a.m., Affiant conducted an inspection of a disposal site operated by Joseph Gassell, located in Perry County, Illinois, and known as the Joe Gassell Residence site by the Perry County Solid Waste Management Department. Said site has been assigned site code number 1450105065 by the Perry County Solid Waste Management Department.


3. Affiant inspected said Joe Gassell Residence 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 Joe Gassell Residence site.



Subscribed and Sworn to before me

this 12 day of August, 2005



Notary Public



REMITTANCE FORM

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AUG 23 2005

STATE OF ILLINOIS
Pollution Control

County of Perry,)
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Complainant,)
)
v.)
)
Joseph Gassell,)
)
Respondent.)

County AC #: PC-05-012

AC 06-06

FACILITY: Joe Gassell Residence

COUNTY: Perry

DATE OF INSPECTION: August 1, 2005

SITE CODE: 1450105065

CIVIL PENALTY: \$1,500.00

Date Remitted _____

SS/FEIN # _____

Signature _____

NOTE

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

Bill Taylor, Perry County Treasurer
Perry County Government Building
P.O. Box 158
Pinckneyville, IL 62274

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

Site #: 1450105065

Date: 8/1/05

County: Perry

Inspector: Jon Gregory

Subject: Joe Gassell Open Dump Site Inspection

General Remarks: On Monday, August 1, an open dump site inspection was conducted at the Joe Gassell residence, located at 489 Cherry Lake Road in DuQuoin. The weather during the inspection was clear and sunny with the temperature in the 80's. The inspection was conducted as a follow up to an inspection conducted on April 27, 2005. The inspection took place between 8:10 a.m. and 8:17 a.m. The April 27 inspection was conducted in response to a complaint alleging that Mr. Gassell had a vehicle full of trash in his yard and trash scattered throughout the yard.

Upon arrival at the site, I knocked at the front door to Mr. Gassell's mobile home residence and Mrs. Gassell answered the door. I introduced myself and explained that I had come back to inspect the property again. I asked Mrs. Gassell if I could take a look around and take some pictures, and Mrs. Gassell granted me permission.

In the front yard, I observed a mini van that had no license plates and appeared as junk (Photos 001, 007, 008). The van did not appear as though it had been used recently and is not being protected for future use with the doors open. The van was filled with various items (Photo 001, 007, 008) and is in the same condition as it was during my April 27 inspection. The van is in clear view from the public road and is very unsightly.

Also in the yard, I observed an open dumped pile of demolition debris (Photos 002 & 005). This is the same pile of debris that I observed on my April 27 inspection. Photo 003 shows open dumped shingles in the yard and Photo 004 illustrates how unsightly the entire yard appeared. Photo 005 shows an open dumped television set in front of the mobile home. I estimated that there is approximately 25 cubice yards of waste open dumped on this property.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Perry LPC#: 1450105065 Region: 7 - Marion
 Location/Site Name: DuQuoin / Joe Gassell Residence
 Date: 08/01/2005 Time: From 8:10am To 8:17am Previous Inspection Date: 04/27/2005
 Inspector(s): Jon Gregory Weather: clear, sunny, 80's
 No. of Photos Taken: # 8 Est. Amt. of Waste: 25 yds³ Samples Taken: Yes # No
 Interviewed: Mrs. Joe Gassell Complaint #:

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


Joe Gassell
 489 Cherry Lake Road
 DuQuoin, IL 62832

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	<input checked="" type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input checked="" type="checkbox"/>
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	<input checked="" type="checkbox"/>
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	<input checked="" type="checkbox"/>
	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC # 1450105065

Inspection Date: 08/01/2005

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
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	<input checked="" type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	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"/>
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>



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.



DIGITAL PHOTOGRAPHS



Date: 8/1/05
Time: 8:10am-8:17am
Direction: SW
Photo by: Jon Gregory
Exposure #: 001
Comments:

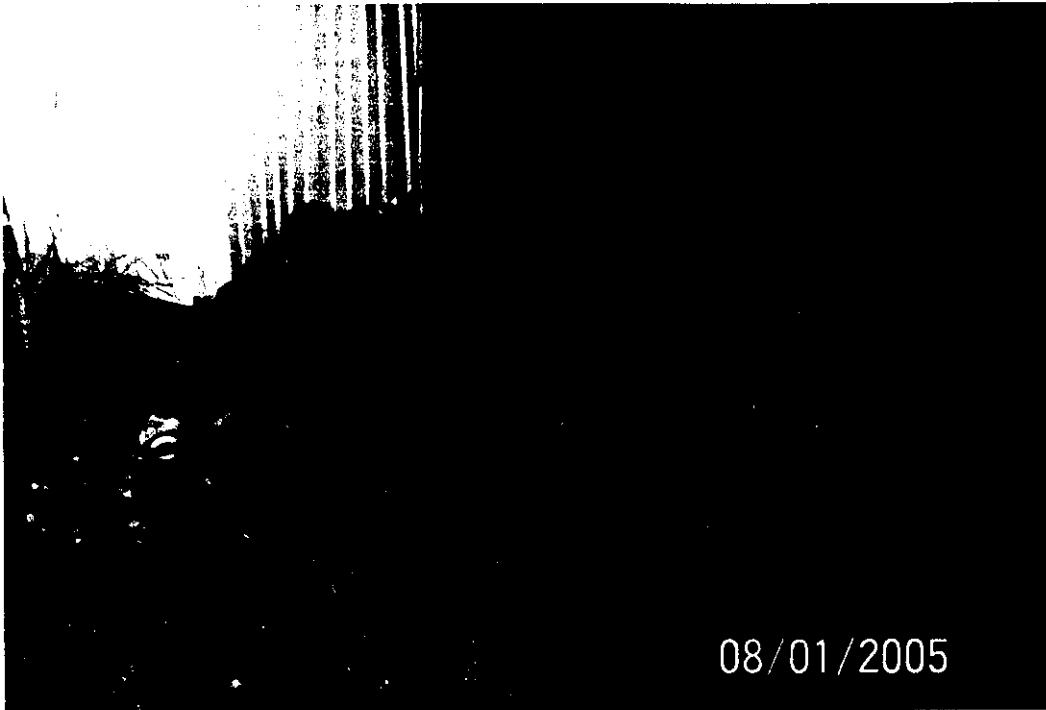


Date: 8/1/05
Time: 8:10am-8:17am
Direction: S
Photo by: Jon Gregory
Exposure #: 002
Comments:

File Names: 1450105065-08012005--[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 8/1/05
Time: 8:10am-8:17am
Direction: NE
Photo by: Jon Gregory
Exposure #: 003
Comments:



Date: 8/1/05
Time: 8:10am-8:17am
Direction: N
Photo by: Jon Gregory
Exposure #: 004
Comments:

File Names: 1450105065-08012005--[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 8/1/05
Time: 8:10am-8:17am
Direction: W
Photo by: Jon Gregory
Exposure #: 005
Comments:



Date: 8/1/05
Time: 8:10am-8:17am
Direction: E
Photo by: Jon Gregory
Exposure #: 006
Comments:

File Names: 1450105065-08012005--[Exp. #].jpg