

RECEIVED
CLERK'S OFFICE
OCT 27 2005
STATE OF ILLINOIS
Pollution Control Board

INFORMATIONAL NOTICE !!!

AC 06 + 5

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: This Administrative Citation refers to TWO separate State of Illinois Agencies. One is the **ILLINOIS POLLUTION CONTROL BOARD** located at James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative Citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) 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 to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the **ATTENTION: DIVISION OF LEGAL COUNSEL**.

Any person other than individuals **MUST** appear through an attorney-at-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 Ill. Adm. Code 101.400(a).

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
ALLEN NOLTENSMEIER,)
)
Respondent.)

AC 06-15

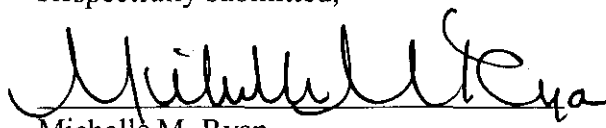
(IEPA No.411-05-AC)

NOTICE OF FILING

To: Allen Noltensmeier
1027 County Road 200N
Chandlerville, Illinois 62627

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: October 25, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	AC
)	
v.)	(IEPA No. 411-05-AC)
)	
ALLEN NOLTENSMEIER,)	
)	
)	
)	
Respondent.)	

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2004).

FACTS

1. That Allen Noltensmeier ("Respondent") is the present operator of a facility located at 10267 County Road 200N, Chandlerville, Mason County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Bath Township/Noltensmeier.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1258015001.
3. That Respondent has operated said facility at all times pertinent hereto.
4. That on September 29, 2005, Michelle Cozadd of the Illinois Environmental Protection Agency's Springfield Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Michelle Cozadd during the course of her September 29, 2005 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (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) (2004).

CIVIL PENALTY

Pursuant to 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 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 December 15, 2005, 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 (2004), and if the Illinois Pollution Control Board issues a finding of violation 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 One Thousand Five Hundred Dollar (\$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) (2004), 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 findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form 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 Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court 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 Section 31.1 of the Act, 415 ILCS 5/31/1 (2004). If Respondent elects to contest this Administrative Citation, then Respondent shall 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, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. 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.

Douglas P. Scott
Douglas P. Scott, Director *by me*
Illinois Environmental Protection Agency

Date: 10/25/05

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant)
)
vs.)
)
ALLEN NOLTENSMEIER,)
Respondent)

IEPA DOCKET NO.

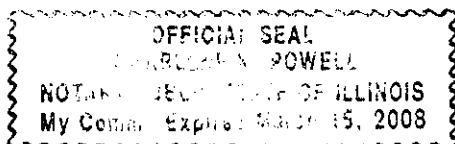
Affiant, Michelle E. Cozadd, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On September 29, 2005, between 10:25 AM and 10:40 AM, Affiant conducted an inspection of a disposal site operated without an Illinois Environmental Protection Agency permit, located in Mason County, Illinois, and known as Bath Township/Noltensmeier by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC #1258015001 by the Illinois Environmental Protection Agency.
3. Affiant inspected said Bath Township/Noltensmeier open dump site by an on-site inspection that included walking and photographing the site.
4. As a result of the activities 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 Bath Township/Noltensmeier open dump.

Michelle E. Cozadd
Michelle E. Cozadd

Subscribed and Sworn To before me
This 19 day of *October, 2005*

Charlene K. Powell



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Mason LPC#: 1258015001 Region: 5 - Springfield
 Location/Site Name: Bath Township/Noltensmeier
 Date: 09.29.05 Time: From 10:25 am To 10:40 am Previous Inspection Date: 06.18.03
 Inspector(s): Michelle Cozadd & David Jansen Weather: 65°F and sunny
 No. of Photos Taken: # 6 Est. Amt. of Waste: 10 yds³ Samples Taken: Yes # _____ No X
 Interviewed: Lois Noltensmeier & Allen Noltensmeier Complaint #: C-05-127-C

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

Mr. Allen Noltensmeier 10267 County Road 200N Chandlerville, IL 62627 217.458.2100	
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	SECTION	DESCRIPTION	VIO
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	
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	
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	
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	

Inspection Date: September 29, 2005

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	
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 TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: () PCB; () CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	
15.	OTHER:		

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
MEMORANDUM

DATE: September 29, 2005

TO: DLPC/Division File

FROM: Michelle Cozadd, DLPC/FOS Springfield Region

SUBJECT: LPC #1258015001 – Mason County
Bath Township/Noltensmeier
FOS File

The purpose of this memorandum is to serve as the narrative for a complaint investigation conducted on September 29, 2005 from 10:25 am to 10:40 am. The complaint alleged the open dumping of used crankcase oil. I was accompanied by Mr. David Jansen, DLPC/FOS Regional Manager. The weather conditions were sunny and approximately 65°F. Six digital photographs were taken to document the conditions at the site. Mrs. Lois Noltensmeier and Mr. Allen Noltensmeier were interviewed during the inspection.

This site was inspected previously on June 17, 2002 when apparent open dumping and open burning violations were observed. Oil contaminated gravel and soil was observed in several locations in the gravel parking lot. Follow-up inspections were conducted on December 11, 2002 and June 18, 2003. The oil contaminated gravel and soil from previous open dumping of used crankcase oil generated on site by Allen Noltensmeier were excavated and disposed at Envirofill Landfill by Ishmael Construction Company, Chandlerville, Illinois.

Upon arrival at the site, Mr. Jansen and I spoke briefly to Ms. Lois Noltensmeier, the property owner. I explained that the Illinois EPA received a complaint concerning the open dumping of used oil. She stated that she was not involved with her son's business. At that time, Mr. Allen Noltensmeier (her son) arrived at the site. I explained to Mr. Noltensmeier the nature of the complaint. We discussed the proper disposal of the oil contaminated gravel and soil. The use of the crankcase oil contaminated gravel on the township roads is not allowed. This was also stated in the Illinois EPA's May 20, 2003 response letter to Mr. Noltensmeier. The use of used oil as a dust suppressant is specifically prohibited by 35 I.A.C. 739.112(b). Mr. Noltensmeier was of the opinion that his dumping of used crankcase oil should be allowed because the township and the State also use oil on public roads. The road oil used for public roads by units of State or local government is not considered a waste, and does not have the same physical and chemical characteristics as used crankcase oil.

The attached photos #001 through #004 show the oil contaminated gravel and soil along the edge of the parking lot near the railroad ties. There were two semi trucks parked near the large shed. The large shed appears to be used for vehicle maintenance operations.

Four burn barrels on the south side of the large shed are shown in the attached photo #005. The attached photo #006 shows the contents of one of the burn barrels. Plastic and scrap metal were observed in the burn barrel. Household waste not including garbage is allowed to be open burned in a burn barrel. For example, Mr. Noltensmeier is allowed to burn items such as paper, newspapers and junk mail but not wastes like metal food cans or plastic food containers.

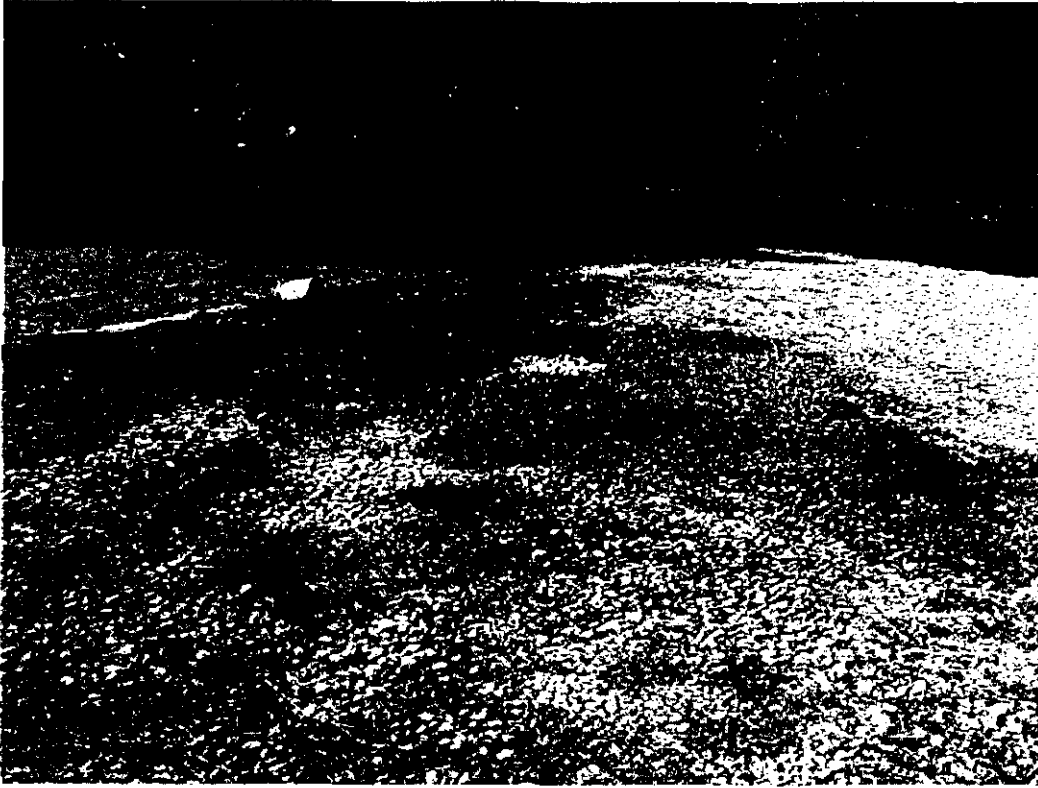
The clean up of the contaminated gravel and soil will result in what is called a special waste in Illinois. However, there has been a change in the Illinois Environmental Protection Act's statutes that allows a generator of a nonhazardous, nonliquid waste that would otherwise be considered a special waste to self-certify that it is not a special waste. Pursuant to 22.48 of the Illinois Environmental Protection Act ("Act"), an industrial process waste or pollution control waste **must** be managed as a special waste *unless* the generator first certifies in a signed, dated, written statement that the waste is outside the scope of the categories listed in subdivision (1) of subsection (c) of Section 3.45 of the Act. All information used to determine that the waste is not a special waste is to be attached to the certification. The certification is effective from the date signed until there is a change in the generator, in the raw materials used, or in the process generating the waste. The certification is to be maintained by the certifying generator while effective and for at least three years following a change in the generator, a change in the raw materials used, or a change in or termination of the process generating the waste. A copy of the certification is to be provided upon request to the Illinois Environmental Protection Agency, the waste hauler, or the operator of the facility receiving the waste. If the cleanup waste qualifies as a nonspecial waste, it can be transported to a municipal landfill without having a manifest accompany it, and the hauler does not have to be a licensed special waste hauler.

A site sketch and digital photograph photocopies accompany this narrative.

cc: DLPC/FOS Springfield Region



DIGITAL PHOTOGRAPHS



Date: 29 September
2005
Time: 10:34 am
Direction: SE
Photo by: M. Cozadd
Exposure #: 001
Comments: Oil
contaminated gravel and
soil



Date: 29 September
2005
Time: 10:35 am
Direction: NE
Photo by: M. Cozadd
Exposure #: 002
Comments: Oil
contaminated gravel and
soil

File Names: 1258015001~09292005-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 29 September
2005
Time: 10:35 am
Direction: W
Photo by: M. Cozadd
Exposure #: 003
Comments: Oil
contaminated gravel and
soil



Date: 29 September
2005
Time: 10:35 am
Direction: E
Photo by: M. Cozadd
Exposure #: 004
Comments: Oil
contaminated gravel and
soil

File Names: 1258015001~09292005-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 29 September
2005
Time: 10:37 am
Direction: NW
Photo by: M. Cozadd
Exposure #: 005
Comments: Four burn
barrels south of shed



Date: 29 September
2005
Time: 10:37 am
Direction: W
Photo by: M. Cozadd
Exposure #: 006
Comments: Contents of
one of the four burn
barrels

File Names: 1258015001~09292005-[Exp. #].jpg

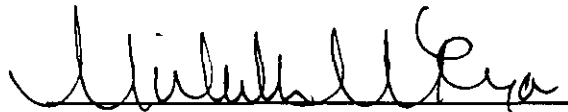
PROOF OF SERVICE

I hereby certify that I did on the 25th day of October 2005, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Allen Noltensmeier
1027 County Road 200N
Chandlerville, Illinois 62627

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



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
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