

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MICHAEL GRUEN and JON ERIC)
GRUEN, d/b/a JON'S TREE SERVICE,)
)
Respondents.)

AC 06-49
(IEPA No. 96-06-AC)

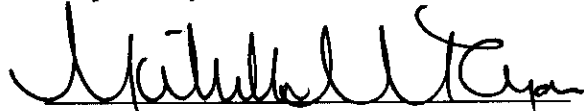
NOTICE OF FILING

To: Michael Gruen
1132 Terrace Drive
St. Louis, MO 63117

Jon Eric Gruen, d/b/a Jon's Tree Service
21064 Old Route 66
Mt. Olive, IL 62069

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: May 30, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,) AC 06-49
v.) (IEPA No. 96-06-AC)
MICHAEL GRUEN and JON ERIC GRUEN,)
d/b/a JON'S TREE SERVICE,)
Respondents.)

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 Michael Gruen is the property owner and Jon Eric Gruen, d/b/a Jon's Tree Service is the operator ("Respondents") of a facility located as follows: Part of the Southwest Quarter of Section 15, Township 7 North, Range 6 West of the Third Principal Meridian, Macoupin County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Mt. Olive/Gruen.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1178135010.
3. That Respondents have owned and operated said facility at all times pertinent hereto.

4. That on April 20, 2006, Jan Mier 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 Jan Mier during the course of her April 20, 2006 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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), Respondents are 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 Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 30, 2006, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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, Respondents 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 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, 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, Respondents 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

Respondents have 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 Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

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

Date: 5/29/06

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

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MICHAEL GRUEN and JON ERIC GRUEN,)
d/b/a JON'S TREE SERVICE,)
)
)
Respondents.)

AC 06-49
(IEPA No. 96-06-AC)

FACILITY: Mt. Olive/Gruen SITE CODE NO.: 1178135010
COUNTY: Macoupin CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: April 20, 2006

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 Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

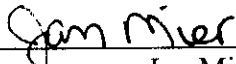
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)	
)	
Illinois Environmental)	
Protection Agency)	
)	
vs.)	IEPA DOCKET NO.
)	
Michael Gruen)	
Respondent)	
)	
)	


Affiant, *Jan Mier*, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control/Field Operations Section of the Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On April 20, 2006, between 12:25 p.m. and 12:55 p.m., Affiant conducted an inspection of an open dump, located in Macoupin County, Illinois and known as *Mt. Olive/Gruen* by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC # 1178135010 by the Agency.
3. Affiant inspected said site by an on-site inspection, which 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 open dump.



 Jan Mier

Subscribed and Sworn to Before Me
this 11th day of May, 2006


 Notary Public
 CHARLENE K. POWELL
 NOBARY PUBLIC
 My Comm. Expires 12/31/2006

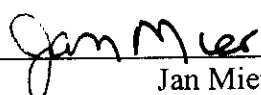
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)	
)	
Illinois Environmental)	
Protection Agency)	
)	
vs.)	IEPA DOCKET NO.
)	
Jon Gruen)	
Respondent)	
)	
)	


Affiant, *Jan Mier*, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control/Field Operations Section of the Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On April 20, 2006, between 12:25 p.m. and 12:55 p.m., Affiant conducted an inspection of an open dump, located in Macoupin County, Illinois and known as *Mt. Olive/Gruen* by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC # 1178135010 by the Agency.
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 Jan Mier

Subscribed and Sworn to Before Me
this 11th day of May, 2006



 Notary Public

I, CHARLENE K. POWELL, Notary Public,
 do hereby certify that the foregoing is a true and correct copy of the original.
 My Comm. Expires 05/05/2008

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: MACOUPIN LPC#: 1178135010 Region: SPFLD
 Location/Site Name: MT. OLIVE/GRUEN
 Date: 4/20/06 From 12:25 PM To 12:55 PM Previous Inspection Date: 1/5/06
 Inspector(s): JAN MIER Weather: 60 F, SUNNY, WINDY
 No. of Photos Taken: # 13 Est. Amt. of Waste: 200 yds³ Samples Taken: Yes # No X
 Interviewed: No one on site Complaint #: C-05-045-C

Responsible Party Mailing Address(es) and Phone Number(s):	Michael Gruen 1132 Terrace Drive St. Louis, MO 63117 314/991-8649	Jon Gruen 210 Cooper Avenue Lot #19 East Alton, IL 62024 618/259-0262
---------------------------------------------------------------------	----------------------------------------------------------------------------	--------------------------------------------------------------------------------

	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	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
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	<input type="checkbox"/>
	(3)	Open Burning	
	(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 # 1178135010

Inspection Date: 4/20/06

	(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	X
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"/>

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
Inspection Narrative**

**LPC#1178135010 – Macoupin County
Mt. Olive/Gruen
FOS File**

**Inspection Date: 4/20/06
Inspector: Jan Mier
C-05-045-C**

On April 4, 2006, I conducted a re-inspection at the above-referenced site. The original deadline date for the Administrative Citation Warning Notice was March 31, 2005. An extension was given until May 31, 2005. A second extension was given until July 29, 2005. A third extension was given until December 31, 2005. A final extension was given until March 15, 2006. Mr. Gruen has submitted receipts for firewood he has sold and metal and vehicles he has scrapped, but I am unable to note any improvement in the site because of the large amount of wood on site.

I arrived at 12:25 p.m. No one was on site and the gate was locked so I walked around the perimeter of the property. Photo #001 is a partial view of the west side of the property where logs are lining an approximate 250' fence. Photo #002 shows the entrance drive to the site with cut wood lining each side. Photo #003 shows a portion of the wood stacked along the drive. Some wood has deteriorated and is starting to crumble. Tree saplings are also growing in the stacked wood (see photo #004). New waste has appeared on site since the last inspection (see photo #005). Five drums are along the east portion of the fenced area (see photo #006). One drum was smoldering and filled with ash (see photo #007). There are about eight vehicles on site, four of which are shown in photo #008. Mr. Gruen, the site operator, has stated the white truck is in use for his tree trimming business. A large metal tank is also in photo #008.

I walked along the north side of the fenced area and observed cut stacked logs and large weathered logs south of them (see photo #009). Photo #010 shows stumps and logs that have weathered to the point of degrading. Photos #011, #012 and #013 show the vehicles on site. Two pick truck beds are filled with wire, metal, plastic, mowers and vehicle parts. A mobile home on site is being used for storage, according to Mr. Gruen. I departed at 12:55 p.m.

Continuing violations observed during the inspection are noted on the attached checklist.

cc: DLPC/FOS – Springfield Region



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:33 p.m.
Direction: E
Photo by: Jan Mier
Exposure #: 001
Comments:

Weathered logs lining
the west side of the
property



Date: 4/20/06
Time: 12:36 p.m.
Direction: W
Photo by: Jan Mier
Exposure #: 002
Comments:

Logs lining the drive
on the east side of the
property

File Names:1178135010 ~ 04202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:36 p.m.
Direction: N
Photo by: Jan Mier
Exposure #: 003
Comments:

Logs and crumpled
lumber



Date: 4/20/06
Time: 12:37 p.m.
Direction:
Photo by: Jan Mier
Exposure #: 004
Comments:

Tree growing through
logs along driveway

File Names:1178135010 ~ 04202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:37 p.m.
Direction: SW
Photo by: Jan Mier
Exposure #: 005
Comments:

Tree limbs and logs
with mobile home and
truck in the
background



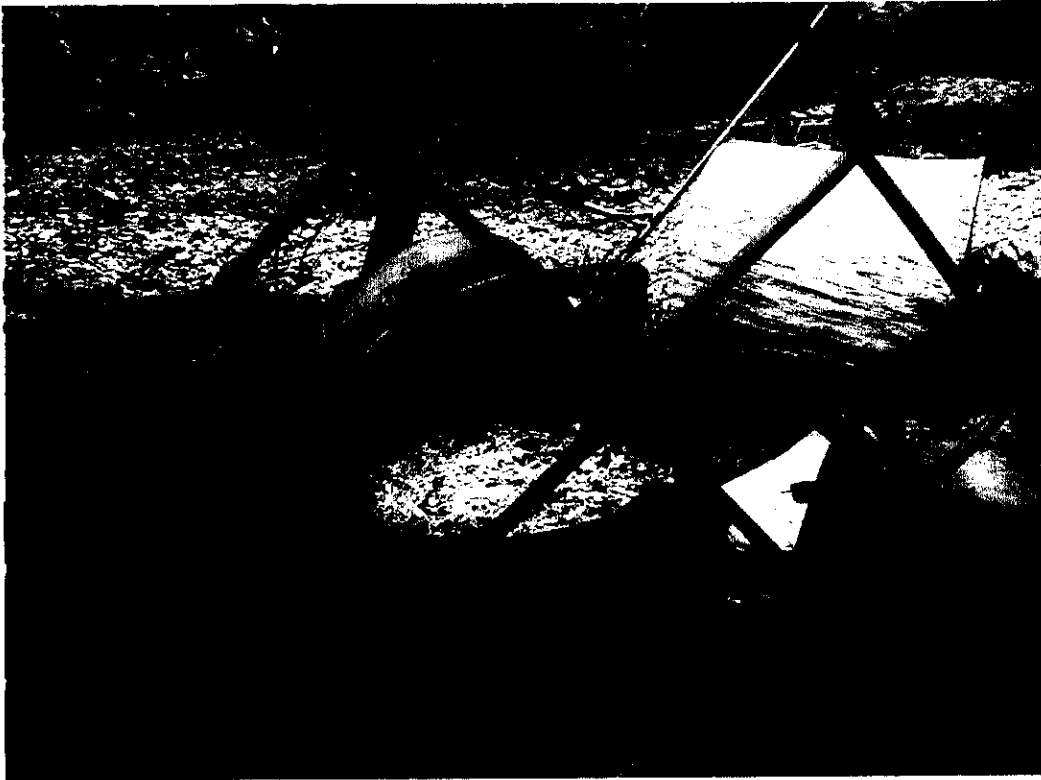
Date: 4/20/06
Time: 12:38p.m.
Direction: NW
Photo by: Jan Mier
Exposure #: 006
Comments:

Mobile home,
abandoned truck, logs,
drums, garbage cans
and tree limbs

File Names:1178135010 ~ 04202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:38 p.m.
Direction: W
Photo by: Jan Mier
Exposure #: 007
Comments:

Drum with smoldering
ash, grill and log



Date: 4/20/06
Time: 12:39 p.m.
Direction: W
Photo by: Jan Mier
Exposure #: 008
Comments:

Metal tank, garbage
cans, vehicles and logs

File Names:1178135010 ~ 04202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:39 p.m.
Direction: S
Photo by: Jan Mier
Exposure #: 009
Comments:

Stacked and unstacked
logs with empty motel
in background



Date: 4/20/06
Time: 12: p.m.
Direction: S
Photo by: Jan Mier
Exposure #: 010
Comments:

Weathered stumps and
logs

File Names:1178135010 ~ 04202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 4/20/06
Time: 12:46 p.m.
Direction: NW
Photo by: Jan Mier
Exposure #: 011
Comments:

Back of truck, truck
bed with garbage in it,
and vehicle



Date: 4/20/06
Time: 12:47 p.m.
Direction: NE
Photo by: Jan Mier
Exposure #: 012
Comments:

Truck bed with sapling
growing next to it,
containing wire, metal,
vehicle parts, truck bed
with garbage, and
other vehicles on site

File Names:1178135010 ~ 04202006-[Exp. #].jpg

PROOF OF SERVICE

I hereby certify that I did on the 30th day of May 2006, 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: Michael Gruen	Jon Eric Gruen, d/b/a Jon's Tree Service
1132 Terrace Drive	21064 Old Route 66
St. Louis, MO 63117	Mt. Olive, IL 62069
Cert #7004 2510 0001 8590 3456	Cert #7004 2510 0001 8590 3463

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
Cert # 7004 2510 0001 8590 3470



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



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR DOUGLAS P. SCOTT, DIRECTOR

(217) 782-9817
TDD: (217) 782-9143

AC 06-49

May 30, 2006

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

Re: Illinois Environmental Protection Agency v. Michael Gruen and Jon Eric Gruen, d/b/a Jon's Tree Service
IEPA File No. 96-06-AC; 1178135010—Macoupin County

Dear Clerk Gunn:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Ryan
Assistant Counsel

Enclosures

INFORMATIONAL NOTICE !!!

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).