

ILLINOIS POLLUTION CONTROL BOARD

April 7, 2011

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 11-21
	)	(IEPA No. 41-11-AC)
CHRISTOPHER and CORA KESSINGER,	)	(Administrative Citation)
	)	
Respondents.	)	

ORDER OF THE BOARD (by by G.T. Girard):

On March 11, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Christopher and Cora Kessinger (the Kessingers). *See* 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a facility located at 215 North Cobb Street in Roodhouse, Greene County. The property is commonly known to the Agency as the “Roodhouse/Kessinger” site and is designated with Site Code No. 0610355025.

On March 28, 2011, the Agency filed a motion for voluntary dismissal of the administrative citation. In the motion, the Agency states that “[b]ecause Christopher and Cora Kessinger were not timely served within 60 days as required by 415 ILCS 5/31.1(b), this Administrative Citation should be dismissed.” Motion at 1. The Board grants the motion, dismisses the case, and closes the docket.

IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2011, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE  
MAR 11 2011  
STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
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Complainant, )  
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CHRISTOPHER and CORA KESSINGER )  
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AC 11-21  
(IEPA No. 41-11-AC)

ORIGINAL

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 (2008).

FACTS

1. That Christopher and Cora Kessinger are the current owners ("Respondent's") of a facility located at 215 North Cobb Street, Roodhouse, Greene County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Roodhouse/Kessinger.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0610355025.
3. That Respondent's have owned said facility at all times pertinent hereto.
4. That on January 18, 2011, Charlie King of the Illinois Environmental Protection Agency's ("Illinois EPA") Springfield Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 2-22-11, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 0220 0000 0152 4349.

#### VIOLATIONS

Based upon direct observations made by Charlie King during the course of his January 18, 2011 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent's have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent's 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) (2008).
  
- (2) That Respondent's caused or allowed the open dumping of waste in a manner resulting in Deposition of General Construction or Demolition Debris: or Clean Construction or Demolition Debris a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2008).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondent's 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 Three Thousand Dollars (\$3,000.00). If Respondent's elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than March 30, 2011, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent's 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 (2008), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent's 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) (2008), if Respondent's 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, Respondent's 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's 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's in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondent's 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 (2008). If Respondent's elect to contest this Administrative Citation, then Respondent's 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's.

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

Date: 2/19/2011

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

RECEIVED  
CLERK'S OFFICE  
MAR 11 2011  
STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
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AC 11-21  
(IEPA No. 41-11-AC)

ORIGINAL

FACILITY: Roodhouse/Kessinger

SITE CODE NO.: 0610355025

COUNTY: Greene

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: January 18, 2011

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.