

ILLINOIS POLLUTION CONTROL BOARD
September 22, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 11-28
)	(IEPA No. 0350105004)
THAD and LINDA SHAFER,)	(Administrative Citation)
)	
Respondents.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On June 7, 2011, the Illinois Environmental Protection Agency (Agency) filed an administrative citation against Thad and Linda Shafer. *See* 415 ILCS 5/31.1 (2010); 35 Ill. Adm. Code 108. The administrative citation concerns a property located at 984 U.S. Route 40 in Jewett, Cumberland County. The property is commonly known to the Agency as the “Jewett/Shafer” site and is designated with Site Code No. 0350105004. The Agency alleged that on April 7, 2011, Thad and Linda Shafer violated Sections 21(p)(1) and 21(p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1) and (p)(7) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter and causing or allowing the open dumping of waste in a manner resulting in deposition of construction demolition debris.

By order of August 18, 2011, the Board accepted for hearing an amended petition for review filed by Thad Shafer. In the same order, the Board directed the Agency to file proof of service on Linda Shafer “or any other appropriate filing” on or before September 8, 2011.

On September 8, 2011, the Agency filed a motion to voluntarily dismiss the respondent Linda Shafer from this administrative citation action. In the motion, the Agency states that timely service was made on Thad Shafer on June 7, 2011. However, proof of service on Linda Shafer was not available. The Agency states that upon further review, it was unable to determine whether a person with the name “Linda Shafer” exists or where service may be had upon such a person. The Agency failed to serve the administrative citation on Linda Shafer within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2010); *see also* 35 Ill. Adm. Code 108.202(b). The Board therefore grants the Agency’s motion to dismiss this pending action as to respondent Linda Shafer only. *See* 35 Ill. Adm. Code 108.402.

The case against Thad Shafer will proceed consistent with the Board’s order of August 18, 2011. Captions in future orders will list Thad Shafer’s name only.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 22, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
JUN 07 2011
STATE OF ILLINOIS
Pollution Control Board

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AC 11-28
(IEPA No. 125-11-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 Thad and Linda Shafer are the current owners ("Respondents") of a facility located at 984 US Route40, Jewett, Cumberland County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Jewett/Shافر (fka Gran).

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0350105004.

3. That Respondents have owned said facility at all times pertinent hereto.

4. That on April 7, 2011, Dustin Burger of the Illinois Environmental Protection Agency's ("Illinois EPA") Champaign 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 6-2-11, Illinois EPA sent this Administrative Citation via Certified Mail No. 7004 2510 0001 8619 1630.

VIOLATIONS

Based upon direct observations made by Dustin Burger during the course of his April 7, 2011 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) (2008).

- (2) That Respondents 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), 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 Three Thousand Dollars (\$3,000.00). If Respondents elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 30, 2011, 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 (2008), 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) (2008), 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 Respondents 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 Respondents 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 (2008). 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.

Lisa Bonnett *by SOP*
Lisa Bonnett, Interim Director
Illinois Environmental Protection Agency

Date: 5/31/11

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

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ORIGINAL

FACILITY: Jewett/Shafer (fka Gran) SITE CODE NO.: 0350105004
COUNTY: Cumberland CIVIL PENALTY: \$3,000.00
DATE OF INSPECTION: April 7, 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.