

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

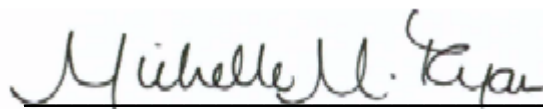
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| ILLINOIS ENVIRONMENTAL |) | |
| PROTECTION AGENCY, |) | |
| |) | |
| Complainant, |) | AC 11-22 |
| |) | |
| v. |) | (IEPA No. 50-11-AC) |
| |) | |
| KYLE E. PRITCHETT, |) | |
| |) | |
| Respondent. |) | |

NOTICE OF FILING

To: Kyle E. Pritchett
411 1/2 West 1st Street
Mt. Carmel, IL 62863

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled POST-HEARING BRIEF OF COMPLAINANT.

Respectfully Submitted,


e-signature valid for IPCB e-filings ONLY

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: September 24, 2015

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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| KYLE E. PRITCHETT, |) | |
| |) | |
| Respondent. |) | |

POST-HEARING BRIEF OF COMPLAINANT

On March 16, 2011, the Illinois Environmental Protection Agency (“Illinois EPA”) issued an administrative citation to Kyle E. Pritchett (“Respondent”). The citation alleges violations of Section 21(p)(1) of the Environmental Protection Act (“Act”) (415 ILCS 5/21(p)(1) (2014)), in that Respondent caused or allowed open dumping of waste resulting in litter. The violations occurred at a property located at 411½ West First Street, south of Mt. Carmel, Wabash County, on January 27, 2011. Transcript, p. 7; Exhibit 1.

Illinois EPA has demonstrated that Respondent caused or allowed open dumping on the site. “Open dumping” means “the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.” 415 ILCS 5/3.305 (2014). “Refuse” means “waste,” (415 ILCS 5/3.385 (2014)), and “waste” includes “any garbage . . . or other discarded material” (415 ILCS 5/3.535 (2014)). The inspection report admitted into evidence as Exhibit 1 and the testimony at hearing show vehicles, tires, a boat, white goods, scrap metal, insulation, roofing material, and domicile waste were present at the site. Tr. at 8-9; Exh. 1, pp. 5-12. These materials constitute “discarded material” within the meaning of the term “waste.” Respondent owns the site (Tr. at 7) and does not deny the presence of these open

dumped wastes during the inspection (Tr. at 13). Therefore, Respondent caused or allowed open dumping of waste observed on January 27, 2011.

Respondent's causing or allowing the open dumping of these wastes resulted in "litter" under Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2014)). The Act does not define "litter," but in similar cases, the Board has looked to the definition of "litter" in the Litter Control Act:

"Litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish...or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

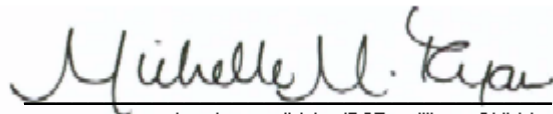
415 ILCS 105/3(a) (2002); see *St. Clair County v. Louis I. Mund* (Aug. 22, 1991), AC 90-64, slip op. at 4, 6. Using this definition, the materials noted above at the site constitute "litter" under Section 21(p)(1) of the Act, and therefore Respondent violated that section.

Respondent raises no real defense. His claim that there are "plenty of places around town that are worse than mine" does not provide any defense (Tr. at 12). He also states that he "complied," but the evidence introduced at hearing clearly shows noncompliance, which Respondent does not deny. The fact that Respondent didn't "know what to say" at hearing likewise does not provide a defense. A person can cause or allow a violation of the Act without knowledge or intent. *County of Will v. Utilities Unlimited, Inc., et al.* (July 24, 1997), AC 97-41, slip op. at 5, citing *People v. Fiorini*, 143 Ill.2d 318, 574 N.E.2d 612 (1991). Therefore, the claims raised by Respondent do not provide a defense to the proven violations.

The Illinois EPA photographs, inspection report and the testimony show that Respondent allowed open dumping of waste in a manner resulting in litter in violation of Section 21(p)(1) of the Act. Illinois EPA requests that the Board enter a final order finding that Respondent violated these sections and imposing the statutory penalty of \$1,500.

Respectfully Submitted,

Dated: September 24, 2015



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Special Assistant Attorney General

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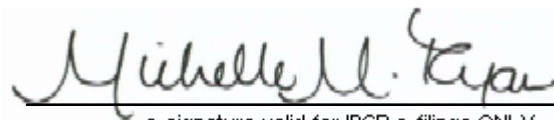
PROOF OF SERVICE

I hereby certify that I did on the 24th day of September 2015, send by U.S. Mail 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 POST-HEARING BRIEF OF COMPLAINANT

To: Kyle E. Pritchett
411 ½ West 1st Street
Mt. Carmel, IL 62863

and an electronic copy of the same foregoing instrument on the same date via electronic filing

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



e-signature valid for IPCB e-filings ONLY

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Special Assistant Attorney General

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