

ILLINOIS POLLUTION CONTROL BOARD
December 1, 1994

WAYNE COUNTY)	
HEALTH DEPARTMENT,)	
)	
Complainant,)	
)	
v.)	AC 94-83
)	(County No. 1-94)
)	(Administrative Citation)
ALMA D. KURTZ,)	
)	
Respondent.)	

ORDER OF THE BOARD:

This matter comes before the Board upon an September 26, 1994 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by Wayne County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon Alma D. Kurtz on September 24, 1994. The Wayne County Health Department alleges that on September 9, 1994, Alma D. Kurtz, present owner and/or operator of a facility located in Wayne County and commonly known to the County as Kurtz Dumpsite, violated Section 21(p)(1) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

Alma D. Kurtz has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that Alma D. Kurtz, has violated the provision alleged in the Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order Alma D. Kurtz shall, by certified check or money order payable to the Wayne County Treasurer, pay a penalty in the amount of \$500.00, which is to be sent to:

Gayla Vaughan
Wayne County Treasurer
Wayne County Courthouse
Fairfield, Illinois 62837

2. Respondent shall include the remittance form and write the case name and number and his social security or federal Employer Identification Number on the certified check or money order.

3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 12th day of December, 1994, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

WAYNE COUNTY HEALTH DEPARTMENT,)
Complainant,)
V.)
ALMA D. KURTZ,)
Respondent.)

AC 94-83
#01-94

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1031.1.

FACTS

1. That Respondent is the present owner and/or operator of a facility located in the County of Wayne, State of Illinois.
2. That said facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with Site Code No. 1910250002. Said facility is commonly known to the Agency as the Kurtz Dumpsite.
3. That Respondent has owned and/or operated said facility at all times pertinent hereto.
4. That on September 09, 1994, Bill J. Bruce, of the Wayne County Health Department, inspected the above described facility. A copy of the inspection report setting forth the results of such inspection is attached hereto and made a part hereof.

VIOLATIONS

On the basis of the direct observation of the Kurtz Dumpsite, the Wayne County Health Department has determined that Respondent has caused or allowed open dumping at the above described facility in a manner which resulted in the following occurrences:

A. That on 09-01-94 an on-site inspection of said facility disclosed the following:

1. X Causing or allowing litter (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(p)(1) [formerly 1021(q)(1)]).

CIVIL PENALTY

Pursuant to Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1042(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph A1, for a total of \$500.00. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Wayne County Health Department and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than October 31, 1994. If you do not petition the Illinois

Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.

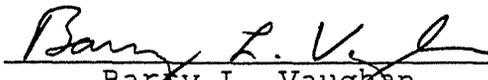
When payment is made, your check should be made payable to the Wayne County Treasurer and mailed to the attention of Gayla Vaughan, Wayne County Treasurer, Wayne County Courthouse, Fairfield, Illinois 62837. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received. If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing is not paid when due, the Wayne County State's Attorney shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, if any, the State's Attorney will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Ill. Rev. Stat. 1991, Ch. 111 1/2, par. 1031.1. If you elect

to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Wayne County State's Attorney, Attention: Barry L. Vaughan, Wayne County Courthouse, Fairfield, Illinois 62837. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. The Petition for Review may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the State's Attorney at the Wayne County Courthouse, Fairfield, Illinois 62837, Attention: Barry L. Vaughan.



Barry L. Vaughan
Wayne County State's Attorney

DATE: 9-20-94

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WAYNE COUNTY HEALTH DEPARTMENT,)
Complainant,)
V.)
ALMA D. KURTZ,)
Respondent.)

AC 94-83
#01-94

AFFIDAVIT

Affiant, Bill J. Bruce, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Wayne County Health Department and has been so employed at all times pertinent hereto.

2. On September 09, 1994, between 11:58 a.m. and 12:15 p.m., Affiant conducted an inspection of a disposal site operated without an Agency permit, located in Wayne County, Illinois, and known as the Kurtz Dumpsite by the Wayne County Health Department. Said site has been assigned site code number 1910250002 by the Department.

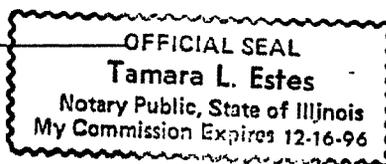
3. Affiant inspected said open dumpsite site by an on-site inspection which included walking and photographing the site.

4. As a result of the material actions 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 Alma D. Kurtz, Kurtz Dumpsite.

Bill J. Bruce

Subscribed and Sworn to before me
this 20th day of September, 1994.

Tamara L. Estes
Notary Public



REMITTANCE FORM

WAYNE COUNTY HEALTH DEPARTMENT,)
Complainant,)
V.) AC 94-83
ALMA D. KURTZ,) #01-94
Respondent.)

FACILITY: Kurtz Dumpsite SITE CODE NO.: 1910250002
COUNTY: Wayne CIVIL PENALTY: \$500.00
DATE OF INSPECTION: September 09, 1994

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 corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Wayne County Treasurer's Office, Wayne County Courthouse, Fairfield, Illinois 62837