

ILLINOIS POLLUTION CONTROL BOARD  
June 16, 1988

IN THE MATTER OF: )  
 )  
JAMES ESAREY, ) AC 88-41  
 ) (IEPA Docket No. 8966-AC)  
Respondent. )

ORDER OF THE BOARD:

This matter comes before the Board upon a May 11, 1988 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by the Illinois Environmental Protection Agency (Agency). A copy of that Administrative Citation is attached hereto. Service of the Administrative Citation was made upon James Esarey on May 9, 1988. The Agency alleges that James Esarey has violated Sections 21(p)(5), 21(p)(11), 21(p)(11) and 21(p)(11) of the Act. The statutory penalty established for each of these violations is \$500.00 pursuant to Section 42(b)(4) of the Act.

James Esarey 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 James Esarey has violated each and every provision alleged in the Administrative Citation. Since there are four (4) such violations, the total penalty to be imposed is set at \$2,000.00.

It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this Order James Esarey shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay a penalty in the amount of \$2,000.00 which is to be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, IL 62706

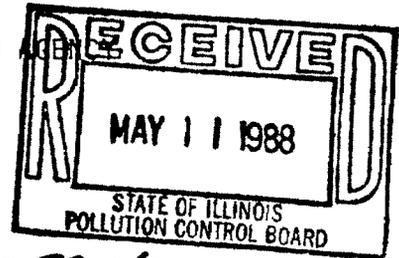
IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 16<sup>th</sup> day of June, 1988, by a vote of 7-0.

Dorothy M. Gunn  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

ADMINISTRATIVE CITATION



IN THE MATTER OF:

James Esarey,

Respondent.

)  
) *AC 88-41*  
) IEPA DOCKET NO. 8966-AC  
)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Public Act 84-1320 (Ill. Rev. Stat. 1986, Supp., ch. 111½, par. 1031.1).

FACTS

1. That Respondent, James Esarey, is the present operator of a facility located in the County of Greene, State of Illinois.

2. That said facility is operated as a sanitary landfill, operating under Illinois Environmental Protection Agency Operating Permit No. 1974-90-OP, and designated with Site Code No. 0618070001. Said facility is commonly known to the Agency as Roodhouse/Esarey.

3. That Respondent has operated said facility at all times pertinent hereto.

4. That on April 8, 1988, Richard Johnson, of the Illinois Environmental Protection Agency, inspected the above-described landfill 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 direct observation of Richard Johnson, the Illinois Environmental Protection Agency has determined that Respondent was conducting a sanitary landfill operation at the above-described facility, which is required to have a permit pursuant to Ill. Rev. Stat. 1985, ch. 111½, par. 1021(d), in a manner which resulted in the following conditions:

- A. On April 8, 1988, said landfill had uncovered refuse remaining from a previous operating day, in violation of Ill. Rev. Stat. 1986 Supp., ch. 111½, par. 1021(p)(5).
- B. By April 8, 1988, said landfill had failed to submit the required water monitoring report for the January 15, 1988 quarter for Birch Creek, thereby violating Special Condition 1 of permit 1974-90-0P and Ill. Rev. Stat. 1986 Supp., ch. 111½, par. 1021(p)(11).
- C. By April 8, 1988, said landfill had failed to submit a closure and post-closure plan, in violation of 35 Ill. Adm. Code 807.624 and Ill. Rev. Stat. 1988, ch. 111½, par. 1021(p)(11).
- D. By April 8, 1988, said landfill had failed to submit an update of its financial assurance mechanism, in violation of 35 Ill. Adm. Code 807.623 and Ill. Rev. Stat. 1986, ch. 111½, par. 1021(p)(11).

## CIVIL PENALTY

Pursuant to Public Act 84-1320 (Ill. Rev. Stat. 1986 Supp., ch. 111½, par. 1042(b)(4)), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraphs A through D, for a total of two thousand (\$2,000.00) dollars. Additionally, should you elect to petition the Illinois

Pollution Control Board under the review process described hereinbelow, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, you shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency 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 June 14, 1988. 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.

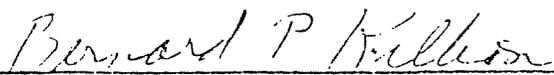
When payment is made, your check should be made payable to the Illinois Environmental Protection Trust fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due; the Illinois Environmental Protection Agency shall take into consideration such failure to pay during any permit review process upon your application for a new permit or for renewal of an existing permit. Furthermore, if payment is not received when due, the Offices of the Illinois Attorney General shall be requested to initiate proceedings in Circuit Court

to collect said civil penalty. In addition to the previously assessed civil penalty, and hearing costs of the Illinois Environmental Protection Agency and the Illinois Pollution Control Board, if any; the Attorney General's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Public Act 84-1320 (Ill. Rev. Stat. 1986 Supp., ch. 111½, 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 Illinois Environmental Protection Agency. 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 Illinois Environmental Protection Agency at 2200 Churchill Road, P.O. Box 19276, Springfield, Illinois 62794-9276, Attention: Enforcement Services.

  
Bernard P. Killian  
Bernard P. Killian, Acting Director  
Illinois Environmental Protection Agency

Date: May 6, 1988