

ILLINOIS POLLUTION CONTROL BOARD
November 20, 2008

COUNTY OF OGLE,)
)
 Complainant,)
)
 v.) AC 09-15
) (Administrative Citation)
 VEOLIA ES ORCHARD HILLS LANDFILL,)
 INC.,)
)
 Respondent.)

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

On September 25, 2008, complainant, the County of Ogle (County), filed an administrative citation against respondent, Veolia ES Orchard Hills Landfill, Inc. (Orchard Hills Landfill). On September 26, 2008, the County filed an inspector's affidavit and a site drawing, both as part of the administrative citation. The administrative citation was timely filed. *See* 415 ILCS 5/31.1(b), (c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(b), (c). The administrative citation concerns a sanitary landfill located at 8290 Highway 251 in Davis Junction, Ogle County. The landfill is subject to Illinois Environmental Protection Agency (Agency) Operating Permit No. 1996-135-LF and is designated with Agency Site Code No. 1410175005. For the reasons below, the Board finds that Orchard Hills Landfill violated the Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders Orchard Hills Landfill to pay \$500 in civil penalties.

Under the Act, an administrative citation is an expedited enforcement action brought before the Board seeking civil penalties that are fixed by statute. Administrative citations may be filed only by the Agency or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the County alleges that Orchard Hills Landfill violated Section 21(o)(5) of the Act (415 ILCS 5/21(o)(5) (2006)) by conducting a sanitary landfill operation in a manner resulting in uncovered refuse remaining from a previous operating day. The County asks the Board to impose on Orchard Hills Landfill the statutory civil penalty of \$500. As required, the County served the administrative citation on Orchard Hills Landfill within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b). Specifically, the County inspected the site on July 28, 2008. The 60th day thereafter was September 26, 2008. The County served the administrative citation personally on September 24, 2008, and by certified mail on September 25, 2008.

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do

so, the Board must find that the respondent committed the violation alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by October 29, 2008, *i.e.*, the 35th day after September 24, 2008. Orchard Hills Landfill has not filed a petition. Accordingly, the Board finds that that Orchard Hills Landfill violated Section 21(o)(5) of the Act.

The civil penalty for violating any provision of subsection (o) of Section 21 of the Act is \$500 for each violation. *See* 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(o), the total civil penalty is \$500. Under Section 31.1(d)(1) of the Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board finds that Orchard Hills Landfill violated Section 21(o)(5) of the Environmental Protection Act (415 ILCS 5/21(o)(5) (2006)).
2. Orchard Hills Landfill must pay the total civil penalty of \$500 no later than December 22, 2008, which is the first business day following the 30th day after the date of this order. Orchard Hills Landfill must pay the civil penalty by two separate certified checks, each in the amount of \$250, one made payable to the Ogle County Treasurer, and the other made payable to the Illinois Environmental Protection Fund. Each certified check must include the case number, case name, and Orchard Hills Landfill's federal employer identification number.
3. Orchard Hills Landfill must send the \$250 certified check payable to the Ogle County Treasurer to:

Ogle County Treasurer
Ogle County Courthouse
P.O. Box 40
Oregon, Illinois 61061
4. Orchard Hills Landfill must send the \$250 certified check payable to the Illinois Environmental Protection Trust Fund to:

Fiscal Services
Illinois Environmental Protection Agency
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

6. Payment of this penalty does not prevent future prosecution if the violation continues.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 20, 2008, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board