

ILLINOIS POLLUTION CONTROL BOARD
February 7, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 09-47
)	(IEPA No. 82-09-AC)
D & B REFUSE SERVICE, INC., and)	(Administrative Citation)
STEVE LOVEALL,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on May 26, 2009 against D & B Refuse Service, Inc., and Steve Loveall (collectively, respondents). The Agency alleged that on April 15, 2009, the respondents violated Section 21(o)(13) of the Environmental Protection Act (Act) (415 ILCS 5/21(o)(13) (2010)¹) by conducting a sanitary landfill operation without submitting a cost estimate or performance bond or other security for the respondent’s facility located at 8 Bayhill Drive, Sullivan, Moultrie County (property). The property is commonly known to the Agency as the “D & B Refuse” site and is designated with Site Code No. 1390300001.

Respondents timely filed a petition to contest the administrative citation, which the Board accepted on July 23, 2009. On January 16, 2013, the parties filed a “stipulation of settlement and dismissal of respondent’s petition for administrative review”² (Stip.). Under its terms, respondents admit that, in October of 2008, they submitted a letter of credit to the Agency that was incomplete, a violation of Section 21(o)(13) of the Act (415 ILCS 5/21(o)(13) (2010)). Respondents agree to pay the statutory civil penalty of \$500 for this violation. Stip. at 2. Respondents also agree to the dismissal of their petition contesting the administrative citation. *Id.* at 3. The stipulation further states that the landfill that was the subject of this administrative citation was certified as closed on October 8, 1994, and has since completed all post-closure care requirements other than a minimum of four consecutive quarters of remaining groundwater monitoring that is the subject of a supplemental permit issued by the Agency on March 1, 2012, and is otherwise in general compliance. *Id.* at 2.

¹ All citations to the Act will be to the 2010 compiled statutes, unless the provision at issue has been substantively amended in the 2010 compiled statutes.

² On page two of the stipulation, the parties refer to an attached Exhibit A. Exhibit A was not filed with the Board, but is described in the stipulation as a post-closure financial assurance form.

For these reasons, under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2010)), the Board finds that respondents violated Section 21(o)(13) of the Act (415 ILCS 5/21(o)(13) (2010)). Section 42(b)(4) of the Act (415 ILCS 5/42(b)(4) (2010)) establishes a civil penalty of \$500 for this violation. The Board accordingly assesses a civil penalty of \$500.

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

ORDER

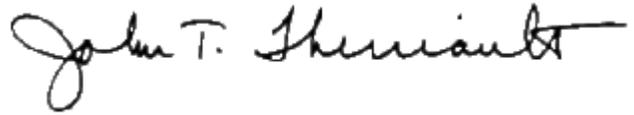
1. The Board finds that D & B Refuse Service, Inc., and Steve Loveall (collectively, respondents) violated Section 21(o)(13) of the Environmental Protection Act (415 ILCS 5/21(o)(13) (2010)).
2. Respondents must pay a civil penalty of \$500 no later than Monday, March 11, 2013, which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. Respondents must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. The Board dismisses respondents' petition to contest the administrative citation.

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) (2010); *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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 7, 2013, 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 at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
MAY 26 2009
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
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Complainant,)
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v.)
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D & B REFUSE SERVICE, INC. and)
STEVE LOVEALL,)
)
Respondents.)

AC 09-47
(IEPA No. 82-09-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 (2006).

FACTS

1. That D&B Refuse Service, Inc. is the permitted operator and Steve Loveall is the permitted owner ("Respondents") of a facility located at 8 Bayhill Drive, Sullivan, Moultrie County, Illinois.

2. That said facility is a sanitary landfill, operating under Illinois Environmental Protection Agency Permit No. 1974-87-DE, 1974-87-OP and Supplemental Permit No. 2008-277 and is designated with Site Code No. 1390300001. The facility is commonly known to the Illinois Environmental Protection Agency as D&B Refuse Service.

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

4. That on April 15, 2009, Ronald A. McCormick of the Illinois Environmental Protection Agency's Springfield Office completed a Financial Record Review of documents for the D & B

Refuse Service, Inc. 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 5-19-09, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 3020 0002 3214 3428 # 7007 3020 0002 3214 3398.

VIOLATIONS

Based upon direct observations made by Ronald A. McCormick during the course of his April 15, 2009 inspection of those records, the Illinois Environmental Protection Agency has determined that Respondents violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents conducted a sanitary landfill operation, which is required to have a permit under subsection (d) of this Section, in a manner which resulted in any of the following conditions: failure to submit any cost estimate for the site or any performance bond or other security for the site as required by this Act or Board rules, a violation of Section 21(o)(13) of the Act, 415 ILCS 5/21 (o)(13) (2006).

CIVIL PENALTY

Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4) (2006), Respondents are subject to a civil penalty of Five Hundred Dollars (\$500.00) for each of the violations identified above, for a total of Five Hundred Dollars (\$500.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 30, 2009, 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 (2006), 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 statutory civil penalty.

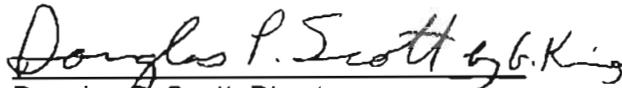
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and a finding 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 (2006). 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.


Douglas P. Scott, Director
Illinois Environmental Protection Agency

Date 5/19/09

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

RECEIVED
CLERK'S OFFICE
MAY 26 2009
STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
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D & B REFUSE SERVICE, INC. and)
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(IEPA No. 82-09-AC)

ORIGINAL

FACILITY: D & B Refuse Service

SITE CODE NO.: 1390300001

COUNTY: Moultrie

CIVIL PENALTY: \$500.00

DATE OF INSPECTION: April 15, 2009

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.