

ILLINOIS POLLUTION CONTROL BOARD  
March 19, 2015

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	AC 15-28
	)	(IEPA No. 37-15-AC)
ILLINOIS POWER RESOURCES	)	(Administrative Citation)
GENERATING, LLC. & ROBERT KLAHS,	)	
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On February 4, 2015, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Illinois Power Resources Generation LLC and Robert Klahs (respondents). *See* 415 ILCS 5/31.1(c) (2012); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondents' sanitary landfill located at 17751 North Cilco Road, Canton, Fulton County. The property is commonly known to the Agency as the "Duck Creek Station Ash LF" site and is designated with Site Code No. 0570255197. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2012)) and orders respondents to pay \$1,000 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. *See* 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2012); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on December 17, 2014, respondents violated Sections 21(o)(7) and (o)(9) of the Act (415 ILCS 5/21(o)(7) and (o)(9) (2012)) by conducting a sanitary landfill in manner resulting in acceptance of waste without the necessary permits and in deposition of refuse in an unpermitted portion of the landfill. The Agency asks the Board to impose the statutory \$500 civil penalty per violation on respondents, for a total civil penalty of \$1,000. As required, the Agency served respondents with the administrative citation on January 30, 2015 and January 31, 2015, which is within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2012); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b).

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 violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2012); 35 Ill. Adm. Code 101.300(b),

108.204(b), 108.406. Here, any petition for review was due by March 6, 2015 and March 9, 2015. Respondents failed to timely file a petition. Accordingly, the Board finds that respondents violated Sections 21(o)(7) and (o)(9) of the Act.

The civil penalty for violating any provision of Section 21(o) is \$500 for each violation. *See* 415 ILCS 5/42(b)(4) (2012); 35 Ill. Adm. Code 108.500(a). Because there two violations of Section 21(o), the total civil penalty is \$1,000. 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 finding of fact and conclusions of law.

### **ORDER**

1. The Board finds that Illinois Power Resources Generation LLC and Robert Klahs (respondents) violated Sections 21(o)(7) and (o)(9) of the Act of the Environmental Protection Act (415 ILCS 5/21(o)(7) and (o)(9) (2012)).
2. Respondents must pay a civil penalty of \$1,000 no later than April 20, 2015, 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 and the remittance form 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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

IT IS SO ORDERED.

Board Member G.M. Keenan voted present.

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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 19, 2015, by a vote of 4-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
v. )  
ILLINOIS POWER RESOURCES )  
GENERATING, LLC and ROBERT KLAHS, )  
Respondents. )

AC 15-28  
(IEPA No.37-15-AC)



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 (2014).

FACTS

1. That Illinois Power Resources Generating, LLC is the permitted owner and Robert Klahs is the Chief Operator, ("Respondents") of a facility located at 17751 North Cilco Road, Canton, Fulton County, Illinois.
2. That said facility is a sanitary landfill, operating under Illinois Environmental Protection Agency Permit No. 2005-121-LF. The facility is designated with Site Code No. 0570255197 and commonly known to the Illinois Environmental Protection Agency as Duck Creek Station Ash LF.
3. That Respondents have owned/operated said facility at all times pertinent hereto.
4. That on December 17, 2014, Robert J. Wagner of the Illinois Environmental Protection Agency's Peoria Regional Office inspected the above-referenced 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 1-29-15, the Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 5806 - IL Power  
7012 0470 0001 3000 5790 - Klahs  
VIOLATIONS

Based upon direct observations made by Robert J. Wagner during the course of his December 17, 2014 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents conducted a sanitary landfill in a manner which resulted in acceptance of wastes without necessary permits, a violation of Section 21(0)(7) of the Act, 415 ILCS 5/21 (0)(7) (2014).
- (2) That Respondents conducted a sanitary landfill in a manner which resulted in deposition of refuse in an unpermitted portion of the landfill, a violation of Section 21(0)(9) of the Act, 415 ILCS 5/21 (0)(9) (2014).

CIVIL PENALTY

Pursuit to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), Respondents are subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation, for a total of One Thousand Dollars (\$1000.00). 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 March 6, 2015, 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 (2014), 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 Five Hundred Dollar (\$500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2014), 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 findings 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 (2014). 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.

Lisa Bonnett <sup>AMP</sup>

Date:

1-28-15

Lisa Bonnett, Director  
Illinois Environmental Protection Agency

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

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
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v. )  
ILLINOIS POWER RESOURCES )  
GENERATING, LLC and ROBERT KLAHS, )  
Respondents. )

AC 15-28  
(IEPA No. 37-15-AC)

RECEIVED  
CLERK'S OFFICE  
FEB 04 2015  
STATE OF ILLINOIS  
Department of Natural Resources

FACILITY: Duck Creek Station Ash LF  
SITE CODE NO.: 0570255197  
COUNTY: Fulton  
CIVIL PENALTY: \$1000.00  
DATE OF INSPECTION: December 17, 2014

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.