

ILLINOIS POLLUTION CONTROL BOARD

July 10, 2003

COUNTY OF VERMILION,)	
)	
Complainant,)	
)	
v.)	AC 03-31
)	(County File No. 03-01)
BRICKYARD DISPOSAL AND)	(Administrative Citation)
RECYCLING, INC.,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On May 22, 2003, County of Vermilion (Vermilion County) timely filed an administrative citation against Brickyard Disposal and Recycling, Inc. (Brickyard). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). Vermilion County alleges that Brickyard violated Section 21(o)(4) of the Environmental Protection Act. 415 ILCS 5/21(o)(4) (2002). Vermilion County further alleges that Brickyard violated this provision by conducting a sanitary landfill operation in a manner that resulted in uncovered refuse remaining from a previous operating day at 601 East Brickyard Road, Danville, Vermilion County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

The administrative citation, as filed, also included a “violation B” that alleged a violation of 35 Ill. Adm. Code 811.311(d)(2), pertaining to design and operation of a gas collection system. By a June 20, 2003 motion to strike, Vermilion County states that it incorrectly included violation B in the administrative citation. The Board therefore strikes “violation B” from the administrative citation. *See* 35 Ill. Adm. Code 101.500.

As required, Vermilion County served the administrative citation on Brickyard within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 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 violation alleged and impose the corresponding civil penalty. 415 ILCS 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Brickyard failed to timely file a petition. Accordingly, the Board finds that Brickyard violated Section 21(o)(4) of the Act.

The civil penalty for violating Section 21(o) is \$500 for each violation. 415 ILCS 5/42(b)(4) (2002); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(o)(4) and this violation is a first offense, 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 finding of fact and conclusions of law.

ORDER

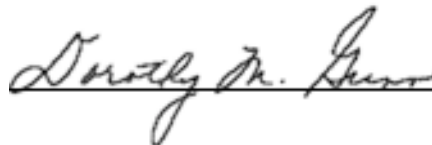
1. Brickyard must pay a civil penalty of \$500 no later than August 9, 2003, which is the 30th day after the date of this order.
2. Brickyard must pay the civil penalty by certified check or money order, made payable to the County of Vermilion, Illinois. The case number, case name, and Brickyard's social security number or federal employer identification number must be included on the certified check or money order.
3. Brickyard must send the certified check or money order and the remittance form to:

Vermilion County Health Department
200 South College Street
Danville, Illinois 61832
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2002).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 10, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in dark ink.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board