

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 2007

COUNTY OF OGLE, )  
 )  
 Complainant, )  
 )  
 v. ) AC 07-56  
 ) (Administrative Citation)  
 BFI WASTE SYSTEMS OF NORTH )  
 AMERICA, INC., )  
 )  
 Respondent. )

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

On April 30, 2007, the County of Ogle (County) timely filed an administrative citation against BFI Waste Systems of North America, Inc. (respondent). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site located at 8902 N. IL Rt. 251, Davis Junction, Ogle County. For the reasons below, the Board finds that respondent violated Section 21(o)(11) of the Environmental Protection Act (Act) (415 ILCS 5/21(o)(11) (2006)) and orders respondent 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 Illinois Environmental Protection Agency (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 respondent violated Section 21(o)(11) of the Act by failing to submit reports required by permit or Board regulations. The County asks the Board to impose a \$500 civil penalty on respondent. As required, the County served the administrative citation on respondent within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2006); *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 a 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 108.204(b), 108.406. Here, any petition for review was due on June 4, 2007. Respondent failed to timely file a petition. Accordingly, the Board finds that respondent violated Section 21(o)(11) of the Act.

The civil penalty for violating Section 21(o) is \$500 for each violation. 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500(a). Because there is only one violation, 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. Respondent must pay a civil penalty of \$500 no later than July 23, 2007, which is the first business day following the 30th day after the date of this order.
2. Respondent must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund.
3. Respondent must send the certified check or money order and the remittance form to:

Ogle County Treasurer  
Ogle County Courthouse  
P.O. Box 40  
Oregon, Illinois 61061

4. 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)).
5. 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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 21, 2007, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board