

ILLINOIS POLLUTION CONTROL BOARD  
October 5, 2006

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| ILLINOIS ENVIRONMENTAL            | ) |                           |
| PROTECTION AGENCY,                | ) |                           |
|                                   | ) |                           |
| Complainant,                      | ) |                           |
|                                   | ) |                           |
| v.                                | ) | AC 07-6                   |
|                                   | ) | (IEPA No. 142-06-AC)      |
|                                   | ) | (Administrative Citation) |
| LANDFILL 33 LTD., RICHARD DIEBEL, | ) |                           |
| and BRIAN HAYES,                  | ) |                           |
|                                   | ) |                           |
| Respondents.                      | ) |                           |

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

On August 7, 2006, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against Landfill 33 Ltd, Richard Deibel, and Brian Hayes (collectively, Landfill 33, Deibel, and Hayes). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The Agency alleged that on June 29, 2006, the Landfill 33, Deibel, and Hayes violated Section 21(o)(5) of the Environmental Protection Act (Act) (415 ILCS 5/21(o)(5) (2004)). The Agency further alleges that Landfill 33, Deibel, and Hayes violated this provision by conducting a sanitary landfill in a manner which resulted in uncovered refuse remaining from the previous . The alleged violations occurred at 1713 South Willow Street, Effingham County.

As required, the Agency served the administrative citation on Landfill 33, Deibel, and Hayes within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *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 5/31.1(d)(1) (2004); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on September 15, 2006. Landfill 33, Deibel, and Hayes failed to timely file a petition. Accordingly, the Board finds Landfill 33, Deibel, and Hayes violated Section 21(o)(5) of the Act.

The civil penalty for violating Section 21(o) is \$500 for each violation. 415 ILCS 5/42(b)(4-5) (2004); 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 finding of fact and conclusions of law.

**ORDER**

1. The Board finds that Landfill 33 Ltd, Richard Deibel, and Brian Hayes violated Section 21(o)(5) of the Act as alleged. Respondents must pay a civil penalty of \$500 no later than November 6, 2006, which is the first business day after the 30th day after the date of this order.
2. Landfill 33, Deibel, and Hayes 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(s) or federal employer identification number must be included on the certified check or money order.
3. Landfill 33, Deibel, and Hayes must send the certified check or money order and the remittance form to:

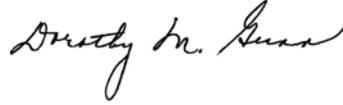
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
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) (2004); *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 October 5, 2006, by a vote of 4-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board