

ILLINOIS POLLUTION CONTROL BOARD
June 21, 2007

COUNTY OF MACON, ILLINOIS,)
)
Complainant,)
)
v.) AC 07-58
) (MCSWMD No. 2007-01-AC)
VEOLIA ES VALLEY VIEW LANDFILL,) (Administrative Citation)
)
Respondent.)

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

On May 10, 2007, the County of Macon (County) timely filed an administrative citation against Veolia ES Valley View Landfill (Veolia). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns Veolia’s sanitary landfill located at 1363 Bear Road in Decatur, Macon County. The facility is designated with Site Code No. 1158040008 and commonly known to the Illinois Environmental Protection Agency (Agency) as “Veolia ES Valley View Landfill.” For the reasons below, the Board finds that Veolia violated the Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders Veolia 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 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 Veolia violated Sections 21(o)(5) and 21(o)(12) of the Act (415 ILCS 5/21(o)(5), (12) (2006)) by conducting a sanitary landfill operation in a manner resulting in (1) uncovered refuse remaining from any previous operating day or at the conclusion of any operating day; and (2) a failure to collect and contain litter from the site by the end of each operating day. The County asks the Board to impose a \$1,000 civil penalty on Veolia. As required, the County served the administrative citation on Veolia 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 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) (2006); 35 Ill. Adm. Code 108.204(b), 108.406. Here, Veolia has filed a response with the County stating that it has elected not to petition the Board for review of the administrative citation, and enclosing proof that it has

already paid the \$1,000 penalty. Response at 3. Accordingly, the Board finds that Veolia violated Sections 21(o)(5) and 21(o)(12) of the Act.

The civil penalty for violating any provision of subsection (o) of Section 21 is \$500 for each violation. *See* 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500(a). Because there are two violations, 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. Veolia must pay a civil penalty of \$1,000. In the event that Veolia's May 18, 2007 \$1,000 payment has not been satisfactorily received by the County, Veolia must pay \$1,000 no later than July 23, 2007, which is the first business day following the 30th day after the date of this order.
2. Veolia must pay the civil penalty by certified check or money order, made payable to the Macon County Solid Waste Management Department. The case number, case name, and Veolia's federal employer identification number must be included on the certified check or money order.
3. Veolia must send the certified check or money order and the remittance form to:

Darlene K. Powell
Macon County Solid Waste Management Department
141 South Main Street, Room 212
Decatur, Illinois 62523-1293
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