

ILLINOIS POLLUTION CONTROL BOARD

March 4, 2010

MACON COUNTY SOLID WASTE)	
MANAGEMENT DEPT.,)	
)	
Complainant,)	
)	
v.)	AC 10-11
)	(MCSWMD No. 2010-001: 1158040008
VEOLIA ES VALLEY VIEW LANDFILL)	(Administrative Citation)
COMPANY,)	
)	
Respondent.)	

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

On January 8, 2010, Macon County Solid Waste Management Department (Macon County) timely filed an administrative citation against Veolia Es Valley View Landfill (Veolia Landfill). *See* 415 ILCS 5/31.1(c) (2008)¹; 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns Veolia Landfill’s sanitary landfill located at 1363 Bear Road, Decatur, Macon County. The property is commonly known to the Macon County as the “Veolia ES Valley View Landfill” site and is designated with Site Code No. 1158040008. For the reasons below, the Board finds that Veolia Landfill violated the Environmental Protection Act (Act) (415 ILCS 5 (2008)) and orders Veolia Landfill to pay \$2,000 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 Illinois Environmental Protection 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) (2008); 35 Ill. Adm. Code 108.

In this case, Macon County alleges that on December 2, 2009, Veolia Landfill violated Sections 21(o)(2),(3),(5), and (12) of the Act (415 ILCS 5/21(o)(2), (3), (5), and (12) (2008)) by operating the landfill in a manner that resulted in leachate flows entering State waters; operating a landfill in a way that resulted in leachate waters exiting the landfill confines; operating a landfill in a way that resulted in uncovered refuse from the previous day; and operating a landfill in a manner that resulted in a failure to collect and contain litter at the end of the operating day. Macon County asks the Board to impose the statutory \$2,000 civil penalty on Veolia Landfill. As required, Macon County served the administrative citation on Veolia Landfill within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2008); *see also* 35 Ill. Adm. Code 101.300(c), 108.202(b).

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

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) (2008); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by February 12, 2010. Veolia Landfill failed to timely file a petition. Accordingly, the Board finds that Veolia Landfill violated Sections 21(o)(2),(3),(5), and (12) of the Act.

The civil penalty for violating any provision of subsection (o) is \$500 for each violation. *See* 415 ILCS 5/42(b)(4) (2008); 35 Ill. Adm. Code 108.500(a). Because there are 4 violations of Section 21(o), the total civil penalty is \$2,000. 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 Veolia ES Valley View Landfill violated Sections 21(o)(2), (3), (5), and (12) of the Environmental Protection Act (415 ILCS 5/21(o)(2), (3), (5), and (12) (2008)).
2. Veolia ES Valley View Landfill must pay a civil penalty of \$2,000 no later than April 5, 2010, which is the first business day following the 30th day after the date of this order. Veolia ES Valley View Landfill must pay the civil penalty by certified check or money order, made payable to Macon County Solid Waste Management Department. The case number, case name, and Veolia ES Valley View Landfill's social security number or federal employer identification number must be included on the certified check or money order.
3. Veolia ES Valley View Landfill must send the certified check or money order and the remittance form to:

Macon County Solid Waste Management Department
141 South Main Street, Room 212
Decatur, IL 62523
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
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) (2008); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 4, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

RECEIVED
CLERK'S OFFICE

JAN 08 2010

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING
BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

MACON COUNTY)
SOLID WASTE MANAGEMENT DEPT.,)
Complainant,)
v.)
VEOLIA ES VALLEY VIEW LANDFILL,)
Respondent.)

AC 10-11
(MCSWMD No. 2010-001: 1158040008)

ORIGINAL

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Macon County Solid Waste Management Department, a delegated county of the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act , 415 ILCS 5/31.1 (2006).

FACTS

1. That Respondent, Veolia ES Valley View Landfill., is the permitted owner and operator of a facility located at 1363 Bear Road, Decatur, Macon County, Illinois.
2. That Timothy D. Curry is the Certified Operator of the above-referenced facility.
3. That said facility is operated as a sanitary landfill, operating under Illinois Environmental Protection Agency Permit No. 1995-198-LF, and is designated with

LPC No. 1158040008. The facility is commonly known to the Macon County Solid Waste Management Department as Veolia ES Valley View Landfill.

4. That Respondents have owned and/or operated said facility at all times pertinent hereto.
5. That on December 2, 2009, Laurie Rasmus of the Macon County Solid Waste Management Department 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.
6. That on Jan. 6, 2010, Laurie Rasmus sent this Notice of Filing of the Administrative Citation via United States Postal Service certified mail
7007 0220 0001 1331 1868
#7007 0220 0001 1331 2230

VIOLATIONS

Based upon direct observations made by Laurie Rasmus during the course of her December 2, 2009 inspection of the above-referenced facility, the Macon County Solid Waste Management Department has determined that Respondents violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents conducted a sanitary landfill operation in a manner which resulted in a manner which results in leachate flows entering waters of the State., a violation of Section 21(o)(2) of the Act, 415 ILCS 5/21(o)(2) (2006); and
- (2) That Respondents conducted a sanitary landfill operation in a manner which results in leachate flows exiting the landfill confines (as determined by the boundaries established for the landfill by a permit issued by the Agency), a violation of Section 21(o)(3) of the Act, 415 ILCS 5/21(o)(3) (2006); and

- (3) That Respondents conducted a sanitary landfill operation in a manner which resulted in uncovered refuse remaining from a previous operating day, a violation of Section 21(o)(5) of the Act, 415 ILCS 5/21(o)(5) (2006); and
- (4) That Respondents conducted a sanitary landfill operation in a manner which resulted in failure to collect and contain litter at the end of the operating day, a violation of Section 21(o)(12) of the Act, 415 ILCS 5/21(o)(12) (2006).

CIVIL PENALTY

Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4) (2006), Respondents are subject to a civil penalty of Five Hundred Dollars (\$500.00) for each of the violations identified above, for a total of Two Thousand Dollars (\$2,000.00). 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 June 30 2009, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects 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 (2006), and if the Illinois Pollution Control Board issues a finding of violation(s) as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Macon County Solid Waste Management Department and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the statutory civil penalty of Two Thousand Dollars (\$2,000.00).

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondent fails 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 a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

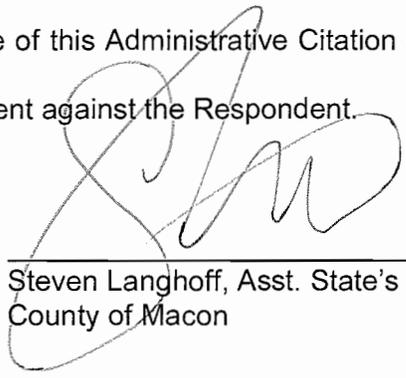
When payment is made, Respondent's check shall be made payable to the Macon County Solid Waste Management Department and mailed to the attention of Debra Hughes-Garrett, Macon County Solid Waste Management Department, 141 South Main Street, Decatur, Illinois 62523. Along with payment, Respondent shall 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 Respondent from the date payment is due up to and including the date that payment is received. The Office of the Macon County State's Attorney may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2006). If Respondent elects to contest this Administrative Citation, then Respondent 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 Macon County State's Attorney at 253 East Wood Street, Decatur, Illinois 62523. 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 Respondent.



Steven Langhoff, Asst. State's Attorney
County of Macon

Date January 6, 2010

Prepared by: Laurie Rasmus, Environmental Inspector
Macon County Solid Waste Management Department
141 South Main Street
Decatur, IL 62523
217/421-0291

ORIGINAL

REMITTANCE FORM

MACON COUNTY)
 SOLID WASTE MANAGEMENT DEPT.,)
RECEIVED)
 CLERK'S OFFICE Complainant,)
 JAN 08 2010 v.)
 STATE OF ILLINOIS)
 POLLUTION CONTROL BOARD VEOLIA ES VALLEY VIEW LANDFILL,)
 Respondent.)

AC *15-11*
 (MCSWMD No. 2010-001: 1158040008)

FACILITY: Veolia ES Valley View Landfill Land Pollution Control No.:
 1158040008

COUNTY: Macon CIVIL PENALTY: \$2,000.00

DATE OF INSPECTION: December 2, 2009

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 Macon County Solid Waste Management Department, Attn.: Debra Hughes-Garrett, 141 South Main Street, Decatur, Illinois 62523.