

ILLINOIS POLLUTION CONTROL BOARD
July 1, 2010

COUNTY OF JACKSON,)
)
Complainant,)
)
v.) AC 10-27
) (Administrative Citation)
KRD TRUCKING,)
)
Respondent.)

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

On May 17, 2010, the County of Jackson timely filed an administrative citation against KRD Trucking. *See* 415 ILCS 5/31.1(c) (2008)¹; 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns KRD Trucking’s transfer trailer with Illinois liscence number 337524 which was observed traveling on IL Route 149 and US Route 51 near De Soto, Jackson County. The property is commonly known to the Illinois Environmental Protection Agency as the “Jackson County / KRD Trucking” site and is designated with Site Code No. 0778035026. For the reasons below, the Board finds that KRD Trucking violated the Environmental Protection Act (Act) (415 ILCS 5 (2008)) and orders KRD Trucking to pay \$1,500 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 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), 55(k), 31.1(c), 42(b)(4), (4-5) (2008); 35 Ill. Adm. Code 108.

In this case, the County of Jackson alleges that on April 22, 2010, KRD Trucking violated Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2008)) by causing open dumping of waste which resulted in litter. The County of Jackson asks the Board to impose the statutory \$1,500 civil penalty on KRD Trucking. As required, the County of Jackson served the administrative citation on KRD Trucking 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).

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. *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 June 16, 2010. KRD Trucking

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.

failed to timely file a petition. Accordingly, the Board finds that KRD Trucking violated Section 21(p)(1) of the Act.

The civil penalty for violating any provision of subsection (p) of Section 21 is \$1,500 for each violation, except that the penalty amount is \$3,000 for each violation that is the person's second or subsequent adjudicated violation of that provision. *See* 415 ILCS 5/42(b)(4-5) (2008); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(p) and there is no indication in the record that this is a second or subsequent adjudicated violation, the total civil penalty is \$1,500. 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

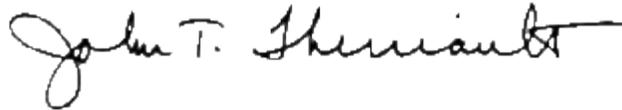
1. The Board finds that KRD Trucking violated Section 21(p)(1) of the Environmental Protection Act (415 ILCS 5/21(p)(1) (2008)).
2. KRD Trucking must pay a civil penalty of \$1,500 no later than August 2, 2010, which is the first business day following the 30th day after the date of this order. KRD Trucking must pay the civil penalty by certified check or money order, made payable in equal amounts (50% of total penalty each) to the County of Jackson and to the Illinois Environmental Protection Trust Fund. The case number, case name, and KRD Trucking's social security number or federal employer identification number must be included on the certified checks or money orders.
3. KRD Trucking must send the certified checks or money orders and the remittance forms to:
 - (1) County of Jackson, c/o Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois 62966
 - (2) 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) (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 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) (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 July 1, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

MAY 17 2010

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,)
)
Complainant,)
)
v.)
)
KRD TRUCKING,)
)
Respondent.)

AC10 - 27
Site Code: 0778035026

ORIGINAL

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, KRD Trucking, is the present owner and operator of a waste hauling/trucking company located at 20340 Stoney Island, Lynwood, Illinois.
2. The Respondent was in responsible charge of a tractor-trailer truck with Illinois license number 337524, and trailer number T-559, being driven on US Route 51 South, near the Village of DeSoto, Illinois, then easterly on State Route 149, near the intersection of US Route 51 and State Route 149, on April 22, 2010.
3. The Respondent has owned said vehicle for all material times hereto.
4. On April 22, 2010, Don Terry, Environmental Compliance Inspector, and Bart Hagston, Solid Waste Manager, both employed by the Jackson County Health Department witnessed litter being blown out of the vehicle. A copy of their report and their affidavits are attached hereto and made a part hereto.

VIOLATIONS

On the basis of their direct observations on April 22, 2010, they determined that the Respondent has caused or allowed open dumping; and resulted in the following violation:

1. The Respondent has caused or allowed litter in violation of 415 ILCS 5/21(p)(1).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 15, 2010, 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, and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the Fifteen Hundred Dollars (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1), 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 findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and
- (2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Complainant may either initiate proceedings against Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall also be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor,

Murphysboro, Il 62966. YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. YOUR PETITION MUST STATE THE REASON(S) YOU BELIEVE THE PRESENT MATTER SHOULD NOT BE ISSUED. IF YOU FAIL TO FILE YOUR PETITION AND STATE THE REASONS THE PRESENT MATTER SHOULD NOT BE ISSUED, A DEFAULT ORDER AGAINST YOU WILL BE ENTERED BY THE POLLUTION CONTROL BOARD.

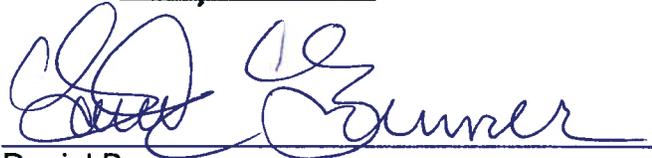
Your original Petition must be filed with the Clerk of the Board at:

Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney
Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, 3rd Floor
Murphysboro, Il 62966

DATED: May 10, 2010

A handwritten signature in blue ink, appearing to read "Daniel Brenner", written over a horizontal line.

Daniel Brenner
Assistant State's Attorney

REMITTANCE FORM TO COUNTY OF JACKSON

RECEIVED
CLERK'S OFFICE

MAY 17 2010

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON,)
)
Complainant,)
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v.)
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KRD TRUCKING,)
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Respondent.)

AC10 - 21
Site Code: 0778035026

ORIGINAL

FACILITY: Jackson Co./KRD Trucking
COUNTY: JACKSON
DATE OF INSPECTION: April 22, 2010
SITE CODE: 0778035026

Date Remitted: _____, 2010

SS/FEIN # _____

Signature _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Shirley Dillinger Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois, 62966

RECEIVED
CLERK'S OFFICE

MAY 17 2010

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM TO ILLINOIS EPA

COUNTY OF JACKSON,)
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 Complainant,)
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 v.)
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 KRD TRUCKING,)
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 Respondent.)

ORIGINAL

AC10 - 27
Site Code: 0778035026

FACILITY: Jackson Co./KRD Trucking
COUNTY: JACKSON
DATE OF INSPECTION: April 22, 2010
SITE CODE: 0778035026

Date Remitted: _____, 2010

SS/FEIN # _____

Signature _____

NOTE

Please enter the date of your remittance, social security number, if an individual, or Federal Employer Identification Number (FEIN) if a corporation, and sign the remittance form. Be sure the appropriate check is enclosed and mail, along with this remittance form, to Illinois Environmental Protection Agency, Attn: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.