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ATTORNEY AT LAW

112 West D Street
Post Office Box 5
Alpha, Illinois 61413-0005

Telephone (309) 629-3100
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Email kellylaw@winco.net

August 10, 2011

Pollution Control Board
Attn: Clerk
100 West Randolph St.
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

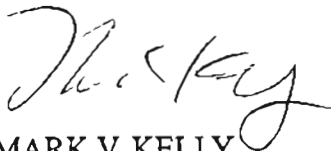
RECEIVED
CLERK'S OFFICE
AUG 12 2011
STATE OF ILLINOIS
Pollution Control Board

Re: James D. Harris
AC 11-27

Dear Sir:

Enclosed is a copy of the request for variance submitted to the Illinois Environment Protection Agency as referred to in Mr. Harris' petition to contest the administrative citation in case AC 11-27. Also enclosed is a copy of the Post Office return receipt showing delivery.

SINCERELY,



MARK V. KELLY

MVK:kg
Enclosures
081011

ORIGINAL

COPY

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August 2, 2011

Illinois Environment Protection Agency
Division of Land/Noise Pollution
2200 Churchill Road
Springfield, IL 62706

Re: James D. Harris
Request for Provisional Variance
and AC 11-27 (IEPA No. 92-11),
and Notice of Corrective Action
Required (No. 095812001)

ORIGINAL

Dear Sir or Madam:

I am writing on behalf of James Harris to request under Section 5/35(b) of the Illinois Environmental Protection Act, 435 ILCS 5/35(b), a provisional variance to the Act's provisions and regulations. Please find below the information required by Title 35 of the Illinois Administrative Code, Subpart A, Chapter II, Part 180.

The IEPA provisions and Illinois Pollution Control Board Order for which Mr. Harris requests a variance are Sections 21(p)(1), 21(p)(3), 21(p)(4), 21(p)(5), 21(p)(7), and 55(k)(1), as set forth in the Order of the Board by the Illinois Pollution Control Board of July 7, 2011, in case number AC 11-27 (copy enclosed), and he requests the variance cover any further orders the board issues in that case. In addition, Mr. Harris requests any variance apply to the "Notice of Corrective Action Required For Open Dumps," numbered 0958120001 (copy enclosed) which he has received.

Mr. Harris' business or activity for which he requests the variance, is the private hauling and recycling of waste and scrap, predominantly in Knox County, Illinois, an area of approximately 720 square miles, with a population of approximately 55,000, and it specifically involves the placing and burning of items on an approximately seven acre tract of land Mr. Harris owns outside of Knoxville, Illinois.

The quantity and types of materials used in the activity for which Mr. Harris requests the variance are approximately ten tons of mainly discarded building and recyclable materials deposited on his Knoxville property between January 28, 2011 and March 29, 2011.

Mr. Harris does not believe there are any pertinent facts regarding drinking water or public water supply regulations related to his variance request.

IEPA

August 2, 2011

page 2

The adverse environmental impacts the variance may produce are nonexistent or minimal because Mr. Harris has already substantially cleaned up the site, which is of a relatively small area, contained a relatively small amount of material to begin with, involved a relatively short duration of activity, and did not involve lasting soil contamination.

Mr. Harris's compliance with the cited statutes imposes an arbitrary and unreasonable hardship due to the unlawful actions of the operators of the Knox County landfill. In summary, the landfill barred Mr. Harris from using the landfill by completely ignoring the established ordinances governing sanctions it can impose against alleged violators of landfill rules. This placed Mr. Harris under immediate economic duress and led to the conduct for which he has been cited by the IEPA. I will provide further details below.

A copy of the "Knox County Hauler Licensing and Recycling Ordinance," in effect in the county is enclosed. It has specified procedures for establishing and withdrawing the right of persons to use the landfill. Notwithstanding the requirements of the ordinance, the county ignores them. In Mr. Harris's case, the Administrator of the Knox County landfill, by letter dated January 31, 2011 (copy enclosed) purported to summarily bar Mr. Harris from using the landfill. He offered no way for Mr. Harris to challenge this action before it occurred, nor after, other than, apparently, in court.

The background of the alleged grounds for action against Mr. Harris cited in the landfill letter is as follows. In 2009, Mr. Harris had a dispute with the landfill staff over a whether or not he had a tarp on his load and had to pay a fine. He was working to resolve the issue with county authorities, but it stretched out over an entire year. While the matter was pending he initially took no work involving demolition, but instead focused on other aspects of his business that did not involve using the landfill.

A year later, not having heard from the county for some months, Mr. Harris again needed to accept work that would involve his use of the landfill. When he attempted to use the landfill as he had a right to do, the landfill staff had Mr. Harris arrested and contrived to have him charged with assault and damage to county property. The January letter barring him from the landfill soon followed.

Mr. Harris was eventually acquitted of the charges, at considerable personal expense. (He was convicted of trespass because he had refused to leave the landfill.) But in the immediate aftermath of the incident, he had work for which he was committed and no way to avoid economic loss without placing materials on the property he owned in a rural area of Knox County. He then again stopped taking work that involved the need to use a landfill. He expected to regain his use of the public landfill through an administrative appeal, and then take the materials there as he had originally planned. But he then discovered the county allows no administrative appeal.

In March of 2011, the IEPA cited Mr. Harris for the violations set forth above, the fines for which total \$9,000.00 He has requested a hearing to contest them, and believes he has some good faith grounds for doing so, but should he lose, he faces a great hardship. This is especially true considering the cost he has already borne defending himself in criminal court and the work he has given up because he has been denied the use of the landfill. The Pollution Control Board lacks the authority to mitigate the penalties in an Administrative Citation case based on the unique circumstances of Mr. Harris's case.

IEPA

August 2, 2011

page 3

Mr. Harris continues to try to resolve the issue with the county, and regrets not finding another solution to his immediate dilemma, but he would not have acted as he did without the arbitrary and unreasonable action of the Knox County landfill. He believes he has complied with the directives of the "Notice of Corrective Action Required For Open Dumps" he received. He requests a 45 day provisional variance for the EPA to waive the violations cited in the Administrative Complaint against him and to reinspect his premises and advise him of what, if any, further corrective action it feels is necessary.

No provisional variances have been granted Mr. Harris during the calendar year. He has no pending permit applications.

As mentioned above, copies of the orders in Mr. Harris' current matter pending before the board in AC 11-27 and the notice number 0958120001 are enclosed.

Please let me or Mr. Harris know your decision, or if you require any further information before making it. Thank you.

SINCERELY,

A handwritten signature in black ink, appearing to read "Mark V. Kelly". The signature is written in a cursive, somewhat stylized font.

MARK V. KELLY

MVK:kg
Enclosures
Copy to client
072511

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2011

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 11-27
)	(IEPA No.92-11)
JAMES HARRIS,)	(Administrative Citation)
)	
Respondents.)	
)	

ORDER OF THE BOARD (by G. T. Girard)

On May 13, 2011, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation against James Harris (respondent). See 415 ILCS 5/31.1(c) (2010); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent's facility located at the dead end of Market Street where the street ends at Haw Creek, in Knoxville, Knox County. The property is commonly known to the Agency as the "Harris Property" site and is designated with Site Code No. 0958120001. For the reasons below, the Board accepts respondents' petition to contest the administrative citation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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. See 415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1(c), 42(b)(4), 42(b)(4-5), 55(k) (2010); 35 Ill. Adm. Code 108.

In this case, the Agency alleges that on March 29, 2011, respondent violated Sections 21(p)(1), 21(p)(3), 21(p)(4), 21(p)(5), 21(p)(7), and 55(k)(1) of the Act (415 ILCS 5/21(p)(1), 5/21(p)(3), 5/21(p)(4), 5/21(p)(5), 5/21(p)(7), and 55(k)(1) (2010)) by causing or allowing the open dumping of waste in a manner resulting in litter; open burning; deposition of waste in standing or flowing waters; proliferation of disease vectors; deposition of general construction or demolition debris; or clean construction or demolition debris; and used tires, at this site, not altered, covered or otherwise prevented from accumulating water at the Knox County site. The Agency asks the Board to impose on respondent the statutory \$1,500 civil penalty for each alleged violation, for a total civil penalty of \$9,000.

As required, the Agency served the administrative citation on respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2010); see also 35 Ill. Adm. Code 101.300(c), 108.202(b). Any petition to contest the administrative citation was due by June 17, 2011. On June 16, 2011, respondent timely filed a petition. See 415 ILCS 5/31.1(d) (2010); 35



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

LISA BONNETT, INTERIM DIRECTOR

NOTICE OF CORRECTIVE ACTION REQUIRED FOR OPEN DUMPS

Illinois Environmental
Protection Agency,
Complainant

0958120001 -- Knox County
Harris Property
Compliance File

vs.

James Harris,
Respondent

WARNING: CORRECTIVE ACTION REQUIRED

To contest the Administrative Citation you have received you must follow the instructions provided in the Administrative Citation. You may be served with additional Administrative Citations if you fail to complete the following corrective actions, and are found to be in violation of Section 21(p) of the [Illinois] Environmental Protection Act. Additional inspections will be conducted to verify cleanup and compliance.

YOU MUST COMPLETE THE FOLLOWING CORRECTIVE ACTIONS:

1. IMMEDIATELY, cease all open dumping and open burning.
2. BY JULY 22, 2011, remove all waste to a permitted landfill or transfer station.
3. BY JULY 22, 2011, remove all used or waste tires to registered tire storage or tire disposal facility. Used or waste tires cannot be taken to a landfill or transfer station for the purpose of disposal. Do not open burn any of the tires. Loads of more than 20 tires must be hauled by a registered tire transporter.
4. BY JULY 29, 2011, submit to the Illinois EPA copies of receipts that document the proper disposal or recycling of the wastes.

Any written response submitted in reply to the corrective action requirements of this notice must be sent to:

Illinois EPA
Attention: Gene Figge
5407 N. University Street
Peoria, Illinois 61614

Rockford • 4302 N. Main St., Rockford, IL 61103 • (815) 982-2760

Elgin • 595 S. State, Elgin, IL 60123 • (847) 698-1131

Bureau of Land - Peoria • 7620 N. University St., Peoria, IL 61614 • (309) 693-1462

Collinsville • 2000 Main Street, Collinsville, IL 62234 • (618) 346-5120

Des Plaines • 9511 W. Harrison St., Des Plaines, IL 60016 • (847) 294-4000

Peoria • 5415 N. University St., Peoria, IL 61614 • (309) 693-5463

Champaign • 2125 S. First St., Champaign, IL 61820 • (217) 278-5800

Marion • 2100 W. Main St., Suite 116, Marion, IL 62959 • (618) 993-7200

Notice Of Corrective Action Required For Open Dumps

0958120001 -- Knox County

Harris Property

Compliance File

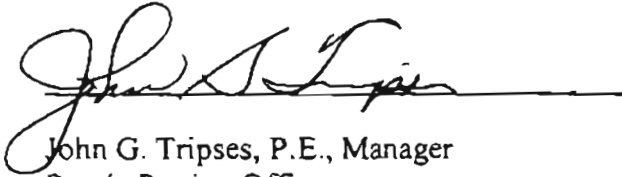
Page 2

On any correspondence you send concerning this matter, please reference the IEPA designated facility number and facility name listed on the first page of this notice.

Should you have any questions concerning this notice or need further assistance, contact **GENE FIGGE** at **309/693-5334**.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

By:



John G. Tripses, P.E., Manager

Peoria Region Office

Field Operations Section

Bureau of Land

Date: May 31, 2011

CERTIFIED MAIL NO.: 7009 0080 0000 8407 1909

Knox County Hauler Licensing and Recycling Ordinance

WHEREAS, The Illinois Solid Waste Planning and Recycling Act, Illinois Compiled Statutes 1994, Chapter 415, Act 15, Section 1, et seq. Requires each county waste management plan adopted shall include a recycling program designed to recycle 15 and 25 percent of its municipal waste by the third and fifth year of their program.

WHEREAS, Knox County has adopted a County Solid Waste Management Plan which consists of the following measurers to achieve and/or exceed both State and County recycling goals:

- A) Source Reduction and Reuse
- B) Provide Recycling Capabilities
- C) Proper Disposal of the Municipal Waste Stream
- D) License all solid waste and recyclable material haulers operating in the Knox County area and required as a condition of licensing to demonstrate the means, methods, etc. to accomplish the recycling goal of Knox County.
- E) All solid waste and recyclable material haulers receiving said license shall report on a quarterly basis the recovery results in terms of both material and respective tonnage's/yardage's to Knox County Solid Waste Manager; and

WHEREAS, as further provided in Illinois Compiled Statutes 1994, Chapter 55, Act 5, Section 5-80001 through 5-80007 provides for the licensing of private disposal contractors by counties, to provide recycling collection services throughout Knox County Area; and

WHEREAS; Knox County is desirous in the implementation of its recycling program within its adopted Solid Waste Management Plan and the recycling goals therein through the enactment of this ordinance; and

WHEREAS, Knox County finds that:

- A) The recycling of certain items, including, but not limited to, aluminum and tin cans, newspapers, corrugated cardboard, high grade printing and writing papers, landscape waste, plastic and glass containers, and any and all recyclable materials is vital to the conservation of America's natural resources; and
- B) The inclusion of recyclable materials in municipal waste generated by both the residents and businesses of the Knox County Area increases the volume of refuse which must ultimately be disposed of in sanitary landfills and

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i.

- 1.12 "Landscape Waste" means all accumulations of grass or shrubbery cuttings, leaves, tree limbs, and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.
- 1.13 "Material Separation Plan" means the plan submitted by solid waste haulers specifying the recycling methods, means, etc. to be provided to residential customers per Section 3.05 of this Ordinance.
- 1.14 "Multi-Family Dwelling" means a building containing four (4) or more dwelling units used for residential occupancy, including apartment houses, boarding houses, non-transient apartment hotels, rooming houses, fraternities, sororities, dormitories and similar housing types but not including hotels, motels, hospitals, foster family homes, long-term care facilities or semi-independent group residents.
- 1.15 "Municipal Waste" means garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, and construction and demolition debris.
- 1.16 "Person" is an individual, partnership, co-partnership, firm, company, corporation association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent, or assigns.
- 1.17 "Recyclable Materials" means material that are separated from garbage, municipal waste or refuse for the purpose of recycling, including but not limited to, aluminum and tin cans, newspaper, corrugated cardboard, high grade printing and writing papers, magazines, landscape waste, plastic and glass containers.
- 1.18 "Recycling" means the process by which solid waste is collected, separated and processed for reuse as either a raw material or a product which itself is submit to recycling, but does not include the combustion of waste for energy recovery or volume reduction.
- 1.19 "Recycling Center" means a site or facility that accepts only non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, cans or plastics, for subsequent use in the secondary materials market.
- 1.20 "Recycling Containers" means any and all receptacles identified specifically for the containment of recycling items.
- 1.21 "Recycling Facility" means a structure, building and/or parcel where material from the waste stream are collected and processed for re-use and/or recycling.
- 1.22 "Recycling, Reclamation or Reuse" means a method, techniques or process designed to remove any contaminant from waste so as to render the waste reusable, or any process by which materials that would otherwise be disposed of or discarded are collected, separated or processed and returned to the economic mainstream in the form of raw materials or products.

- 1.23 "Refuse" means waste.
- 1.24 "Residential Dwelling Unit" means a single, two, and multi-family dwelling.
- 1.25 "Occupant" means person or persons residing in dwellings of one or more units which have either curbside, alley or centrally located collection service.
- 1.26 "Scavenging" means the unauthorized collection of municipal waste and recyclable materials that have been set out by residents of the county specifically for an authorized collection.
- 1.27 "Single Family Dwelling" means a dwelling which is a detached building containing one (1) dwelling unit.
- 1.28 "Solid Waste Management Plan" means the officially adopted Knox County plan pursuant to the Illinois Solid Waste Planning and Recycling Act for the management of municipal waste generated within its boundaries.
- 1.29 "Solid Waste Manager" means the person appointed by Knox County to oversee the implementation and management of solid waste programs as specified within Knox County's Solid Waste Management Plan.
- 1.30 "Two-Family Dwelling" means a dwelling containing two (2) dwelling units, each with completely separate entrances.
- 1.31 "Waste" means any garbage, sludge from waste treatment plan, water supply treatment plan, or air pollution facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act as now or hereinafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 or the rules and regulations thereunder on any law or rule or regulation adopted by the State of Illinois pursuant thereto.

SECTION 2.00 SEPARATION AND COLLECTION OF RECYCLABLE MATERIALS
FROM RESIDENTIAL DWELLING UNITS

OMITTED AT THIS TIME

SECTION 3.00 LICENSES

3.01 Licenses Required

No person shall engage in the business of collecting or hauling garbage, municipal waste, recyclable, landscape waste, brush or other refuse from sites in Knox County without first procuring a license to do so from the Knox County Landfill. Unless earlier suspended or revoked, such license shall be valid for a twelve month period.

3.02 License Procedure

A) Initial Application

Application shall be completed and returned with a material separation plan to Knox County on the form provided by Knox County. The applicant shall comply with the provisions of this Ordinance pending action by Knox County on the license.

B) License Renewal

Knox County shall provide license renewal forms to the hauler within sixty (60) days prior to the expiration of the contractor's current license. License renewal forms shall be completed and received by Knox County thirty (30) days prior to the expiration of the contractor's current license.

C) Conditional License

Knox County may grant a conditional license where an application and/or material separation plan is incomplete. The conditional license shall specify the conditions upon which a permanent license will be granted and the time requirement within which the conditions must be met. Failure to comply with the conditions specified shall result in a revocation of the conditional license and denial of the permanent license.

D) Accuracy of Information

All information required by this Ordinance shall be complete, accurate, and submitted in a timely manner.

E) Business Operation Change

Every hauler shall notify Knox County in writing of any change to their respective material separation plan prior to the effective date of change.

F) Transfer of Ownership

No license is transferable; any attempted transfer of a license shall immediately void such license.

3.03 License Issuance or Denial

A) License Action

Knox County shall have forty-five (45) days from the receipt of the license or renewal application and material separation plan to issue or deny license, license renewal or conditional license. Knox County will issue a temporary license valid for thirty (30) days upon its failure to act upon an application.

B) Notification

Knox County shall notify the application in writing of its decision. If issued, the license shall be mailed by first class mail to the address provided in the application. If denied, a written decision shall be served personally or by certified mail upon the applicant at the address provided in this application.

C) License Denial

A license denial shall provide written notice stating the basis for the denial and shall provide notice to the applicant that if an appeal is desired, a written request for a hearing must be received by Knox County within fifteen (15) calendar days following service, exclusive of the day of service. Upon receipt of a request for hearing, Knox County shall set a time and place for the hearing.

3.04 License and Vehicle Registration Fee

A) Schedule of Fees

The following fees shall be required:

(1) For each License - \$10.00

(2) For each Vehicle used in collecting or hauling garbage, municipal waste, recyclables, landscape waste, brush or other refuse \$5.00. Payment of all fees must accompany the license application or license renewal and material separation plan. These payments may be made at the Knox County Landfill or at the Knox County's Solid Waste Manager's Office.

B) Vehicle Registration

Knox County reserves the right to issue to each applicant or licensee a vehicle registration decal to be placed conspicuously on the outside of each vehicle so utilized by the contractor operating in Knox County. Such decals may be issued annually. The number of said vehicles utilized by the contractor shall be reported in the application.

3.05 Material Separation Plan. Information Required

As a condition of licensing and on a form supplied by Knox County, each applicant or licensee shall submit a material separation plan with the license application to Knox County for approval which shall contain:

- A) The means and method employed to collect, process and market those separated materials from occupants of single family, two family, and multi-family dwelling units, and commercial/institutional and industrial clients.
- B) The identification of specific recycling services to be employed (e.g. curbside services and/or recycling drop-off center or separate dumpsters).
- C) Number of households and clients proposed to be serviced during license year by each collection method used in 3.05 Sub-section B.
- D) The frequency of collection per each method(s) and manner of recovering costs from customers.

Knox County encourages applicants to submit material separation plans which reflect alternative means for collection and processing recyclable material under this Ordinance and volume based incentives for reducing the amount of waste generated.

3.06 Reporting

Quarterly reports made to the Solid Waste Manager on or before April 30th, July 30th, October 31st and January 31st of each year are requested on form(s) supplied by Knox County. All licensees will submit a written report on its recycling service operations during the previous year. Said report shall contain:

- A) The total tonnage of municipal waste collected in the Knox County Area; and
- B) The total tonnage or volume of recyclable material collected and individual material tonnage's from the Knox County Area.

3.07 Certification of Information Reported

Each written report shall be accompanied by a notarized statement attesting that the information provided is complete, true, and accurate.

3.08 Compliance With Other Laws

The obtaining of a license herein shall not be deemed to exclude the necessity of obtaining other licenses as required by applicable laws or regulations. The hauler shall at all times operate in compliance with all applicable rules and regulations.

3.09 Transporting of Waste Over Public Roadways

All loads that have a potential of either falling off or being blown off a transporting vehicle shall be secured by a cover or other acceptable means, so as not to allow for the loss of litter upon the state or county roadway systems.

SECTION 4.00 VIOLATIONS AND PENALTIES

4.01 Civil Penalties

Any licensed hauler who violates any provision of this Ordinance shall be guilty of a petty offense and shall be fined a minimum of not less than \$5.00/day nor more than \$50.00/day and/or suspension of license as authorized in Illinois Compiled Statutes, Chapter 55, Act 5, Section 5-80001, et seq.

4.02 Warnings

Knox County or any of its duly authorized representatives will issue a warning notice to any hauler observed not in compliance with any provision of this Ordinance.

4.03 Citations

Knox County, its duly authorized representative, or any licensed peace officer shall have the power to issue written citations citing the particular violations of this Ordinance alleged to have been violated.

4.04 Departmental Order

Knox County may issue such orders as may be necessary for the enforcement of this Ordinance. Each order shall state the violation and the action and time schedule required for compliance.

4.05 Injunctive Relief

Knox County may institute appropriate actions or proceedings, including application for injunctive relief, action to prevent, restrain, correct or abate any violations or threatened violation of this Ordinance.

4.06 Time Period

For purpose of enforcement, the period of time in which these violations accumulate will be the period of the license.

SECTION 5.00 ADMINISTRATIVE PROCEDURES

5.01 Suspension of License

A) Any license required under this Ordinance may be suspended or revoked for violation of any provision of this Ordinance.

B) Written notice of a suspension or revocation shall be served personally or by registered or certified mail upon the licensee at least fifteen (15) calendar days prior to the effective date of suspension or revocation. The written notice shall contain the effective date of the suspension or revocation; the facts which support the conclusion that a violation or violations have occurred; a statement that if the licensee desires to appeal, a written request for a hearing must be received by Knox County within fifteen (15) calendar days following service of the notice, exclusive of the day of service; and that the request for the hearing must state the grounds for the appeal. If a hearing is requested, the suspension or revocation shall be stayed pending outcome of the hearing.

C) Upon receipt of a request for hearing, Knox County shall set a date, time and place for the hearing. The hearing shall be conducted pursuant to the procedures in the Section 6.01 Hearings of this Ordinance.

5.02 Summary Suspension of License

A) If Knox County find that the public health, safety, or welfare requires immediate action, summary suspension of a license may be ordered.

B) Written notice of a summary suspension shall be by personal service upon the licensee or sent by certified return receipt mail to the licensee's business address. Knox County shall also take reasonable steps to notify the licensee by telephone prior to the summary suspension.

C) The written notice shall state the effective date of the summary suspension; the violation requiring emergency action; the facts which support the conclusion that a violation has occurred; a statement that if the licensee desires to appeal, a written request for hearing must be received by Knox County within ten (10) calendar days following service of the notice, exclusive of the day of service; and that the request must state the grounds for appeal.

D) Upon receipt of a request for hearing, Knox County shall set a date, time, and place for the hearing. The hearing shall be conducted pursuant to the procedures in Section 6.00 Hearings of this Ordinance.

E) The summary suspension shall not be stayed pending an appeal.

SECTION 6.00 HEARINGS

Hearings required pursuant to this Ordinance shall be conducted as follows:

6.01 Hearing Commission

The hearing shall be before an impartial Hearing Commission consisting of three (3) members appointed by the Knox County Landfill Committee.

6.02 Prehearing and Hearing Notice

The County shall schedule and provide notice of the date, time and place of the prehearing conference and hearing. The prehearing conference shall be held at least three (3) weeks prior to the hearing. The hearing shall be held no later than forty-five calendar days after receipt of the request for hearing or by mutual agreement of the parties.

6.03 Procedures

The prehearing conference and hearing shall be conducted in the following manner:

A) The prehearing conference shall define the issues, schedule the exchange of witness lists and documentary evidence, seek agreement on the authenticity of documents and relevant testimonial evidence, determine whether intended evidence is cumulative and repetitive, and consider all other matters that will assist in a fair and expeditious hearing.

B) Each party shall exchange all relevant information and documentary evidence at least one (1) week prior to the hearing date. Such information shall include all evidence intended for introduction at the hearing and includes but is not limited to the following: exhibits; statements; reports; witness lists including a description of the facts and opinions to which each is expected to testify; photographs; slides; demonstrative evidence. Evidence not exchanged in accordance with this provision will not be considered in the hearing unless good cause is shown to the hearing commission.

- C) The hearing shall be public and shall be recorded by a certified court reporter.
- D) All witnesses shall testify under oath or affirmation.
- E) The Hearing is subject to the general rules of evidence with latitude necessary to gain facts or information. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.
- F) Knox County shall have the burden of proof through preponderance of the evidence.
- G) Knox County, licensee or applicant, and additional parties as determined by the hearing commission, shall present evidence in that order. Each party shall have the opportunity to cross-examine the witnesses of the other party. The Hearing Commission may examine witnesses.
- H) The Hearing Commission shall make a written finding of fact and conclusions based upon the evidence provided at the hearing.
- I) The cost of preparing a record shall be borne by the applicant or licensee.
- J) Appeal of a decision by the Hearing Commission shall be made to the Circuit Court within thirty (30) calendar days following the Hearing Commission decision.

SECTION 7.00 SEPARABILITY

7.01 Provisions

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

7.02 Particular Application

Should any court of competent jurisdiction adjudge invalid the application of any provision of this Ordinance to a particular private disposal contractor, material separation plan or recycling operation, such judgment shall not affect the application of such provision to any other private disposal contractor, material separation plan or recycling operation not specifically included in such judgment.

SECTION 8.00 PROVISIONS CUMULATIVE

The provisions in this Ordinance are cumulative and are additional limitations upon all other laws and Ordinances covering any subject matter in this Ordinance.

SECTION 9.00 EFFECTIVE DATE

This Ordinance Shall be in full force and effect one year following adoption by the Knox County Board.

SECTION 10.00 AMENDMENTS

This Ordinance may be amended from time to time by amendatory Ordinances.

SECTION 11.00 EXCEPTIONS

A township or municipality shall be exempt from the requirements of this Ordinance if they have a written agreement with Knox County in which they are assuming responsibility for meeting the diversion goals of Knox County's plan, and the township or municipality can annually demonstrate through reporting as set forth in Section 3.06 of this Ordinance to the Solid Waste Manager that the township or municipality has complied with the diversion goals of the Knox County Solid Waste Plan.

Approved and passed this 16th day of April, 1997, at
Galesburg, Illinois.

James R Baird
James Baird, Chairman, Knox County

ATTEST Sally Bladgett

Shirley County Clerk



**Knox County
Landfill**

Box 407, Wataga, IL 61488

1016 Knox Road, 2150 North
Oneida, IL 61467

Phone: 309-375-6045 Fax: 309-375-6046

January 31, 2011

To: Mr. Jim Harris
184 Duffield Ave
Galesburg, IL 61401

From: Jerry Reynolds
Landfill Administrator

Re: Denial Use or Entry to Knox County Landfill

Due to the incident of January 28, 2011, your failure to pay an outstanding invoice relating to disposal of material and a non secured load charge, and your failure to follow instructions at the Landfill, you are now prohibited from entering onto the property or using any of the facilities of the Knox County Landfill.

A handwritten signature in cursive script, appearing to read "Jerry Reynolds", written over a horizontal line.

Jerry Reynolds
Knox County Landfill Administrator

Date

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Illinois Environmental Protection Agency
Division of Land/Water Pollution
2200 Churchill Rd
Springfield, IL 62706

2. Article Number

(Transfer from service label)

7011 0470 0001 4395 1764

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee
1621 North Grand Avenue East
Post Office Box 19276

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: No

Warren Viles
AUG 04 2011

3. Service Type

- Certified Mail Express Mail
- Registered Return Receipt for Merchandise
- Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes