

ILLINOIS POLLUTION CONTROL BOARD
October 17, 2013

COUNTY OF PERRY,)
)
Complainant,)
)
v.) AC 13-55
) (Administrative Citation)
UNION PACIFIC RAILROAD COMPANY,)
)
Respondent.)

ORDER OF THE BOARD (by D. Glosser):

On June 6, 2013, the County of Perry (County) timely filed an administrative citation against Union Pacific Railroad Company (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 intersection of Union Pacific Railroad tracks and Fairground Road, near Highway 154 in Pinckneyville, Perry County. The property is commonly known to the Agency as the "Pinckneyville/Union Pacific Railroad." site and is designated with Site Code No. 1450155056.

On October 11, 2013, the County and respondent filed a joint motion to dismiss the administrative citation as the parties have reached a settlement. The Board grants the motion and dismisses the case.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 17, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

This Administrative Citation is issued pursuant to the 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, Union Pacific Railroad, is the present owner; and is in control and possession of a facility located in the County of Perry, State of Illinois. The Registered Agent of Union Pacific Railroad, is CT Corporation Systems.

2. The facility is an open dump and designated with the Site Code #1450155056. The facility is known to the Agency as the Pinckneyville/Union Pacific Railroad site.

3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.

4. On May 15, 2013, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on May 15, 2013, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility 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 August 1, 2013, 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 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 elects 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, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) Perry County Solid Waste, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO 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 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 THIS ADMINISTRATIVE CITATION

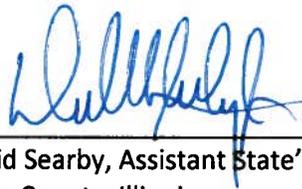
Respondent has the right to contest this Administrative Citation pursuant to and in accordance with 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with David Searby, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. 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 Illinois 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, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, David Searby
Assistant State's Attorney
Perry County Courthouse
Pinckneyville, IL 62274



David Searby, Assistant State's Attorney
Perry County, Illinois

DATE: May 31, 2013

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
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 Complainant,)
)
 vs.)
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 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
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Pollution Control Board

 ORIGINAL

FACILITY: Pinckneyville/Union Pacific Railroad

COUNTY: Perry

DATE OF INSPECTION: May 15, 2013

SITE CODE: 1450155056

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

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

Perry County Solid Waste
c/o Perry County Treasurer
Perry County Government Building
3764 State Route 13/127
Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
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FACILITY: Pinckneyville/Union Pacific Railroad

COUNTY: Perry

DATE OF INSPECTION: May 15, 2013

SITE CODE: 1450155056

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

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

Illinois Environmental Protection Agency
Attention: Fiscal Services
PO Box 19276
Springfield, IL 62794-9276