

ILLINOIS POLLUTION CONTROL BOARD  
August 6, 2015

COUNTY OF OGLE )  
 )  
 Complainant, )  
 )  
 v. ) AC 15-037  
 ) (IEPA-LPC No. 1418230032)  
 KEITH A. KEHL, ) (Administrative Citation)  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On June 24, 2015, County of Ogle (Ogle County) timely filed an administrative citation against Keith A. Kehl (respondent). *See* 415 ILCS 5/31.1(c) (2014); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns respondent’s open dump facility located at 11890 Bethel Road in Rochelle, Ogle County. The property is commonly known to the Illinois Environmental Protection Agency (Agency) as the “Kehl, Keith” site and is designated with Site Code No. 1418320032. For the reasons below, the Board finds that respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2014)) and orders respondent to pay \$4,500 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 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) (2014); 35 Ill. Adm. Code 108.

In this case, Ogle County alleges that on April 22, 2015, respondent violated sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(3), and (p)(7) (2014)) by allowing open dumping and open burning of waste resulting in litter and deposition of general construction or demolition debris and clean construction or demolition debris. Ogle County asks the Board to impose the statutory \$1,500 civil penalty per violation on responded, for a total civil penalty of \$4,500. As required, Ogle County served respondents with the administrative citation on June 18, 2015, which is within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2014); *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 violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2014); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by July 23, 2015. Respondent failed to timely file a petition. Accordingly, the Board finds that respondent violated Sections 21(p)(1), 21(p)(3), and 21(p)(7) of the Act.

The civil penalty for violating any provision of Section 21(p) 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) (2014); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(p) and no indication in the record that either of these is a second or subsequent adjudicated violation, the total civil penalty is \$4,500. 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.

This opinion constitutes the Board's finding of fact and conclusions of law.

### **ORDER**

1. The Board finds that Keith A. Kehl (respondent) violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1),(p)(3) and (p)(7)(2014)).
2. Respondent must pay a civil penalty of \$4,500 no later than September 7, 2015, which is the first business day following the 30th day after the date of this order. Respondent must pay the civil penalty by certified check or money order with \$2,250 to the County of Ogle and \$2,250 to the Illinois Environmental Protection Agency. The case number, case name, and respondent's social security number or federal employer identification number must be included on each certified check or money order.
3. Respondent must send the certified check or money order and the remittance form to:

Ogle County Solid Waste Fund  
Ogle County Treasurer  
P.O. Box 40  
Oregon, Illinois 61061.

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) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).

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) (2014); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 6, 2015, by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION**

COUNTY OF OGLE	)	
	)	
Complainant,	)	
	)	
v.	)	AC 15-
	)	
KEITH A. KEHL	)	
	)	
Respondent.	)	

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2004), specifically 415 ILCS 5/31.1.

**FACTS**

1. The Respondent, Keith A. Kehl, is the present resident, operator, and tax payer of a facility located in the County of Ogle, State of Illinois.
2. The facility, located at 11890 Bethel Road, Rochelle, IL, is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 1418320032. The facility is known to the Agency as Kehl, Keith.
3. That Respondent, Keith A. Kehl, has occupied, controlled and/or operated the facility at all relevant times hereto.
4. That on April 22, 2015 (the inspection upon which this AC was based on) and on August 11 and August 26, 2014 (previous inspections resulting in an Administrative Citation Warning Notice), Paul Cooney, Field Inspector, Ogle County Solid Waste Management Department, inspected the facility.

### **VIOLATIONS**

On the basis of Field Inspector, Paul Cooney's direct observation, he has determined that the Respondent has caused or allowed open dumping and open burning at the above described facility in a manner that has violated the Illinois Environmental Protection Act (hereinafter, the "ACT") as follows:

1. The Respondent has caused or allowed littering in violation of 415 ILCS 5/21(p)(1).
2. The Respondent has caused or allowed open burning in violation of 415 ILCS 5/21(p)(3).
3. The Respondent has caused or allowed the deposition of general construction or demolition debris or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

### **CIVIL PENALTY**

In accordance with 415 ILCS 5/42 (b)(4), the Respondent is subject to a civil penalty of \$1,500.00 for each violation specified above. This is a total of \$4,500.00 for this Citation. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described below, after an adjudicatory hearing, the Respondent shall be assessed the hearing costs incurred by the Pollution Control Board. The hearing cost would be in addition to the fine.

If you acknowledge the violations cited herein above, the civil penalty shall be due and payable no later than 35 days from the date of service hereof. If you do not petition the Pollution Control Board for review of the Administrative Citation within 35 days of service of the

Administrative Citation, or contest the Citation, any judgment that may be rendered against you shall specify the due date of the civil fine and any additional costs assessed against you.

When payment is made, checks shall be made payable in equal amounts (\$2250, or 50% of the total penalty each) to:

- (1) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.
- (2) Ogle County Solid Waste Fund, Ogle County Treasurer, P.O. Box 40, Oregon, Illinois 61061.

If any civil penalty is not paid within the prescribed time, the law allows for the accumulation and payment of interest on the remaining unpaid balance. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and interest, if any, the Ogle County State's Attorney may seek to recover their costs of litigation.

#### 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 be filed with the Ogle County State's Attorney. **Your Petition For Review must be filed within 35 days of the date of service of the present citation on you. If you fail to file your Petition, a Default Order against you will entered by the Pollution Control Board.**

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

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

A copy must also be sent to:

Office of the State's Attorney  
Ogle County Judicial Center  
106 S. 5<sup>th</sup> Street, Suite 110  
Oregon, IL 61061

And

Ogle County Solid Waste Management Department  
909 W. Pines Road  
Oregon, IL 61061

DATED: 6/16/15,

  
Eric Morrow,  
Ogle County State's Attorney

C: IEPA Rockford  
IEPA Springfield  
OCSWMD File  
Ogle County State's Attorney File

## INFORMATIONAL NOTICE

**IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS!**

NOTE: THIS ADMINISTRATIVE CITATION REFERS TO ONE STATE AGENCY AND TWO COUNTY ENTITIES.

The one state agency is: Illinois Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

The two county entities are: Ogle County State's Attorney Office  
Attention: Eric Morrow, Ogle County State's Attorney  
106 S. 5<sup>th</sup> Street, Suite 110  
Oregon, IL 61061

Ogle County Solid Waste Management Department  
Stephen J. Rypkema, Director  
909 W. Pines Road  
Oregon, IL 61061

If you elect to contest the enclosed Administrative Citation, you must file a Petition for Review within thirty-five (35) days of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the Clerk of the Illinois Pollution Control Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Ogle County State's Attorney's Office, Attention: Eric Morrow, at the address given above. Also, a copy of the Petition for Review should be either hand-delivered or mailed to the Ogle County Solid Waste Management Department at the address given above.

REMITTANCE FORM #1

COUNTY OF OGLE )  
 )  
 Complainant, )  
 )  
 v. ) AC 15-  
 )  
 KEITH A. KEHL )  
 )  
 )  
 Respondent. )

FACILITY: Kehl, Keith  
COUNTY: Ogle  
DATE OF INSPECTION: 04/22/2015  
SITE CODE: 1418230032  
CIVIL PENALTY: \$2,250.00 (50% of \$4,500.00 penalty to Ogle County)

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

**NOTE**

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

Ogle County Solid Waste Fund  
Ogle County Treasurer  
P.O. Box 40  
Oregon, IL 61061

REMITTANCE FORM #2

COUNTY OF OGLE	)	
	)	
Complainant,	)	
	)	
v.	)	AC 15-
	)	
KEITH A. KEHL	)	
	)	
	)	
Respondent.	)	

FACILITY:                   Kehl, Keith

COUNTY:                    Ogle

DATE OF INSPECTION:   04/22/2015

SITE CODE:                1418230032

CIVIL PENALTY:           \$2,250.00 (50% of \$4,500.00 penalty to IEPA)

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

**NOTE**

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

Fiscal Services  
 Illinois Environmental Protection Agency  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276