

ILLINOIS POLLUTION CONTROL BOARD
November 6, 2003

COUNTY OF OGLE,)	
)	
Complainant,)	
)	
v.)	AC 03-30
)	(County No. OC 2003-1001)
ROCHELLE WASTE DISPOSAL, LLC, and)	(Administrative Citation)
CLYDE A. GELDERLOOS, Chief Operator,)	
and CITY OF ROCHELLE,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On May 19, 2003, the County of Ogle timely filed an administrative citation against Rochelle Waste Disposal, LLC, and Clyde A. Gelderloos, Chief Operator, and City of Rochelle (respondents). *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). At issue is the County of Ogle's allegation that the respondents violated Section 21(o)(1), (o)(5) and (o)(12) of the Environmental Protection Act (Act). 415 ILCS 5/21(o)(1), (o)(5) and (o)(12). The County of Ogle further alleges that the respondents violated these provisions by conducting a sanitary landfill operation in a manner that resulted in (1) refuse in standing or flowing waters, (2) uncovered refuse remaining from a previous operating day or at the conclusion of an operating day, and (3) a failure to collect and contain litter from the site by the end of each operating day. This site is located at 6513 Mulford Road, Rochelle, Ogle County. The administrative citation meets the content requirements of 35 Ill. Adm. Code 108.202(b).

As required, the County of Ogle served the administrative citation on the respondents within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2002); *see also* 35 Ill. Adm. Code 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. 415 ILCS 31.1(d)(1) (2002); 35 Ill. Adm. Code 108.204(b), 108.406. Here, the respondents failed to timely file a petition. Accordingly, the Board finds that the respondents violated Section 21(o)(1), (o)(5), and (o)(12) of the Act.

The civil penalty for violating Section 21(o) is \$500 for each violation. 415 ILCS 5/42(b)(4) (2002); 35 Ill. Adm. Code 108.500(a). Because there are three violations of Section 21(o) and these violations are first offenses, 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

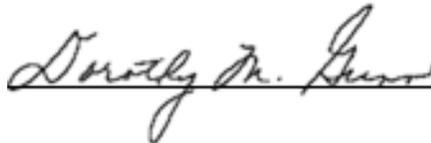
1. The respondents must pay a civil penalty of \$1,500 no later than December 6, 2003, which is the 30th day after the date of this order.
2. The respondents must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund. The case number, case name, and the respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. The respondents must send the certified check or money order and the remittance form to:

Ogle County Treasurer
Ogle County Courthouse
Oregon, IL 61061
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 6, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board