

ILLINOIS POLLUTION CONTROL BOARD
September 9, 1993

COUNTY OF DUPAGE,)	
)	
Complainant,)	
)	
v.)	AC 93-28
)	(County No. 93CD587)
E & E HAULING,)	(Administrative Citation)
)	
Respondent.)	

ORDER OF THE BOARD:

This matter comes before the Board upon a July 21, 1993 filing of an Administrative Citation pursuant to Section 31.1 of the Illinois Environmental Protection Act (Act) by DuPage County. A copy of that Administrative Citation is attached hereto, but will not be printed in the Board's Opinion Volumes. Service of the Administrative Citation was made upon E & E Hauling on July 16, 1993. DuPage County alleges that on May 21, 1993, E & E Hauling, present owner and/or operator of a facility located in DuPage County, and commonly known to the Agency as Mallard Lake Landfill, violated Section 21(o)(5) of the Act. The statutory penalty established for this violation is \$500.00 pursuant to Section 42(b)(4) of the Act.

E & E Hauling has not filed a Petition for Review with the Clerk of the Board within 35 days of the date of service as allowed by Section 31.1(d)(2) of the Act. Therefore, pursuant to Section 31.1(d)(1), the Board finds that E & E Hauling has violated the provision alleged in the Administrative Citation. Since there is one (1) such violation, the total penalty to be imposed is set at \$500.00.

1. It is hereby ordered that, unless the penalty has already been paid, within 30 days of the date of this order E & E Hauling shall, by certified check or money order payable to the DuPage County Treasurer, pay a penalty in the amount of \$500.00 which is to be sent to:

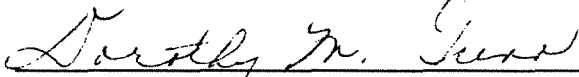
Dean Olson
DuPage County Solid Waste Department
421 N. County Farm Road
Wheaton, Illinois 60187

2. Respondent shall include the remittance form and write the case name and number and their social security or federal Employer Identification Number on the certified check or money order.
3. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Illinois Environmental Protection Act.
4. Payment of this penalty does not prevent future prosecution if the violation continues.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1992) provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 9th day of September, 1993, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF DUPAGE,

PETITIONER

V.

E & E HAULING,

RESPONDENT.

AC B-28,
State's Attorney
File Nos. 93CD587
93SA588

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by Public Act 84-1320 (Illinois Compiled Statutes, 1992, Ch. 415, par. 5/31.1), and delegated to DuPage County pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/4.

FACTS

1. Respondent, E & E Hauling, is the present operator of a facility located in the County of DuPage, State of Illinois.
2. Said facility is operated as a sanitary landfill, operating under Illinois Environmental Protection Agency Operating Permit No. 1982-17-OP, and designated with Site Code No. 0438010004. Said facility is commonly known to the Agency and DuPage County as Mallard Lake Landfill.
3. Respondent has owned or operated said facility at all times pertinent hereto.
4. Respondent was issued an administrative warning notice on April 6, 1993 for uncovered refuse observed on March 29, 1993. Respondent was served with an administrative citation on June 24, 1993, for uncovered refuse observed on April 29, 1993.
5. Inspectors Dean Olson and Rodd Elges of the County of DuPage conducted an inspection of said facility on May 21, 1993, at which time they observed uncovered refuse from previous day operations. A verified copy of the inspection report setting forth the results of such inspection is attached hereto as Exhibit "A" and made a part hereof.

VIOLATIONS

On the basis of direct observations of Dean Olson and Rodd Elges, the County of DuPage has determined that Respondent was conducting a sanitary landfill operation at the above-described facility, which is required to have a permit pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21 (d), in a manner which resulted in the following conditions:

- A. That on May 21, 1993 an on-site inspection of said sanitary landfill facility and a review of Illinois Environmental Protection Agency files and records of said facility, disclosed the following:

- _____ Refuse in standing or flowing water, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(1) [(p)(1)].
- _____ Conducting a sanitary landfill operation in a manner which results in leachate flows exiting the landfill confines, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(2) [formerly (p)(2)].
- _____ Conducting a sanitary landfill operation in a manner which results in leachate flow entering Waters of the State, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(3) [formerly (p)(3)].
- _____ Open burning of refuse, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(4) [formerly (p)(4)].
- X _____ Uncovered refuse remaining from a previous operating day, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(5) [formerly (p)(5)].
- _____ Failure to provide final cover within time limits established by Pollution Control Board regulations, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(6) [formerly (p)(6)].
- _____ Acceptance of wastes without necessary permits, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(7) [formerly (p)(7)].
- _____ Causing or allowing scavenging operations, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(8) [formerly (p)(8)].

- _____ Deposition of refuse in any unpermitted portion of the landfill, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(9) [formerly (p)(9)].
- _____ Acceptance of special waste without a required manifest, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(10) [formerly (p)(10)].
- _____ Failure to submit reports required by permits or pollution Control Board Regulations, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(11) [formerly (p)(11)].
- _____ Failure to collect and contain litter from the site by the end of each operating day, in violation of Illinois Compiled Statutes, 1992, Ch. 415, par. 5/21(o)(12) [formerly (p)(12)].

CIVIL PENALTY

Pursuant to Illinois Compiled Statutes, 1992, Ch. 415, par. 5/42(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each violation specified above in Paragraph A, for a total of Five Hundred Dollars, (\$500.00). Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violation alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the DuPage County State's Attorney and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

If you acknowledge the violations cited hereinabove, the civil penalty specified above shall be due and payable no later than September 3, 1993. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof or if you elect to contest this Administrative Citation, any judgment rendered against you shall specify the due date of the statutory civil penalty and any costs assessed against you.


When payment is made, your check should be made payable to the DuPage County Treasurer, and mailed to the attention of Dean Olson, DuPage County Solid Waste Department, located at 421 N. County Farm Road, Wheaton, Illinois 60187. Also, please complete and return the enclosed Remittance Form, along with your payment, to assure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Illinois Environmental Protection Agency shall take into consideration such failure to pay during any permit review process upon your application for a new permit or for renewal of an existing permit. If any civil penalty imposed by the Illinois Pollution Control Board is not paid within the time prescribed in the order, interest on such penalty will be assessed for the period from the date payment is due until the date payment is received.

Furthermore, if payment is not received when due, the DuPage County State's Attorney may initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of the Illinois Pollution Control Board, if any, the State's Attorney will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation. See Public Act 84-1320 (Illinois Compiled Statutes, 1992, Ch. 415, par. 5/31). If you elect to contest this Administrative Citation, you must file a petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the DuPage County State's Attorney, Attention: Raymond L. Hansen. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment shall be entered by the Pollution Control Board. The Petition for Review may be filed with the Clerk of the Illinois Pollution Control Board at the State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601; and, a copy of said Petition for Review filed with the DuPage County State's Attorney at 505 N. County Farm Road, Wheaton, Illinois 60187, Attention: Raymond L. Hansen.



Raymond L. Hansen
Assistant State's Attorney
For: James E. Ryan
DuPage County State's Attorney

Date: July 16, 1993

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

Please enter the date of your remittance, your Social Security number (SS) if an individual, or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to DuPage County Solid Waste Department, 421 N. County Farm Road, Wheaton, Illinois 60187. Make the check payable to the DuPage County Treasurer.