

ILLINOIS POLLUTION CONTROL BOARD
April 20, 2006

COUNTY OF MACON,)	
)	
Complainant,)	
)	
v.)	AC 06-29
)	(County No. 2006-002-AC)
ONYX VALLEY VIEW LANDFILL)	(Administrative Citation)
(January 5, 2006 inspection),)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On March 9, 2005, the County of Macon timely filed an administrative citation against Onyx Valley View Landfill. *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The County of Macon alleged that on January 5, 2006, Onyx Valley View Landfill violated Section 21(o)(5) and (o)(12) of the Environmental Protection Act (Act) (415 ILCS 5/21(o)(5) and (o)(12) (2004)). The County of Macon further alleges that Onyx Valley View Landfill violated these provisions by conducting a sanitary landfill operation in a manner that resulted in (1) uncovered refuse remaining from a previous operating day; and (2) uncovered refuse remaining from a previous operating day or at the conclusion of an operating day. The alleged violations occurred at a site located at 1363 Bear Road, Decatur, Macon County.

As required, the County of Macon served the administrative citation on Onyx Valley View Landfill within “60 days after the date of the observed violation.” 415 ILCS 5/31.1(b) (2004); *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 5/31.1(d)(1) (2004); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on April 7, 2006. Onyx Valley View Landfill failed to timely file a petition. Accordingly, the Board finds that Onyx Valley View Landfill violated Section 21(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) (2004); 35 Ill. Adm. Code 108.500(a). Because there are two violations of Section 21(o), the total civil penalty is \$1,000. 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

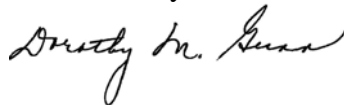
1. The Board finds that Onyx Valley View Landfill violated Sections 21(o)(5) and (o)(12) of the Act as alleged. Onyx Valley View Landfill must pay a civil penalty of \$1,000 no later than May 22, 2006, which is the first business day after the 30th day after the date of this order.
2. Onyx Valley View Landfill must pay the civil penalty by certified check or money order, made payable to the Macon County Solid Waste Management Department. The case number, case name, and Onyx Valley View Landfill's social security number or federal employer identification number must be included on the certified check or money order.
3. Onyx Valley View Landfill must send the certified check or money order and the remittance form to:

Michael Warnick
Macon County Solid Waste Management Department
141 South Main Street
Decatur, Illinois 62523-1293
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
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) (2004); *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 April 20, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board