

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

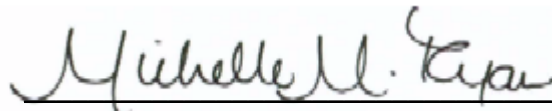
ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, ) AC 08-31  
 )  
v. ) (IEPA No. 71-08-AC)  
 )  
UPPER ROCK ISLAND COUNTY )  
LANDFILL, INC. and DAVE GEIER, )  
 )  
Respondents. )

**NOTICE OF FILING**

To: Upper Rock Island County Landfill, Inc. C T Corporation System  
Attention: Dave Geier 208 South LaSalle Street, Suite 814  
17201 20<sup>th</sup> Avenue N Chicago, IL 60604  
P.O. Box 159  
East Moline, IL 61244

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled MOTION FOR RECONSIDERATION.

Respectfully Submitted,



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

Dated: October 14, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	AC 08-31
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UPPER ROCK ISLAND COUNTY	)	
LANDFILL, INC. and DAVE GEIER,	)	
	)	
Respondents.	)	

MOTION FOR RECONSIDERATION

NOW COMES the Complainant, the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorney, Special Assistant Attorney General Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.520 and 101.902, and respectfully states as follows:

(1) On May 29, 2008, Illinois EPA issued an Administrative Citation to Respondents, Upper Rock Island County Landfill and Dave Geier, based on an inspection conducted on April 22, 2008. This Administrative Citation was uncontested.

(2) The file stamp on the Illinois Pollution Control Board’s (“Board”) copy of the Administrative Citation indicates that it was filed on June 3, 2008.

(3) As indicated in the Certificate of Service attached to the original filing, Illinois EPA sent Respondents their copies of the Administrative Citation via Certified Mail on May 29, 2008, the same day as the Board’s copy was sent. The Certified Mail numbers used were [7004 2510 0001 8618 8210](#) and [7004 2510 0001 8618 8234](#), respectively.

(4) Although Illinois EPA received a green card return receipt back from the Board, neither of the green cards from the Respondents have ever been returned to Illinois EPA. A review

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of the electronic information available via internet indicates that neither of these two Certified Mail numbers were recorded within the U.S. Postal Service system.

(5) Illinois EPA personnel spoke via telephone with Respondent Dave Geier, who indicated that he did receive the Administrative Citation in East Moline, which he believed he received on Tuesday, June 3, 2008.

(6) On or about June 9, 2008, Illinois EPA received payment in full for this Administrative Citation from Respondents.

(7) On September 4, 2008, the Board issued a final order, dismissing this case for the delay in filing proof of service. This order was received by Illinois EPA on September 10, 2008.

(8) Illinois EPA sincerely regrets any inconvenience to the Board caused by the delay in filing proof of service in this case. Various issues internal to Illinois EPA contributed to the timing of filing of this information, and measures have been taken to avoid this problem in the future.

(8) Due to the failure of documentation within the U.S. Postal Service, Illinois EPA does not have the traditional evidence regarding the date of service. However, both Respondent Dave Geier's recollection and the fact of payment prior to the 60-day deadline contained in 415 ILCS 5/31.1(b) both indicate that this Administrative Citation was timely served, at least at to David Geier. Although Illinois EPA has no information as to the disposition of the Certified Mail package sent to CT Corporation Systems as Registered Agent for Respondent Upper Rock Island County Landfill, Inc., Illinois EPA notes that the package sent to Dave Geier was at the operating address for Upper Rock Island County Landfill, Inc. Therefore, Illinois EPA submits that Respondent Upper Rock Island County Landfill, Inc., had actual notice of the Administrative Citation and that the Board has jurisdiction over all Respondents in this matter.

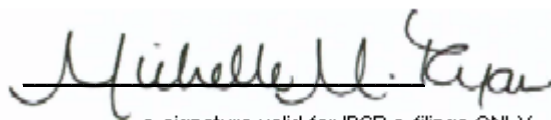
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(9) Pursuant to 35 Ill. Adm. Code 108.406, as a non-contested Administrative Citation, the Board should issue an order assessing penalties consistent with 35 Ill. Adm. Code 108.500(a)(1).

WHEREFORE, Illinois EPA requests that the Board reconsider its September 4, 2008 order based on the new evidence herein contained, and issue a default order against Respondents Dave Geier and Upper Rock Island County Landfill, Inc.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,  
Complainant

DATED: October 14, 2008



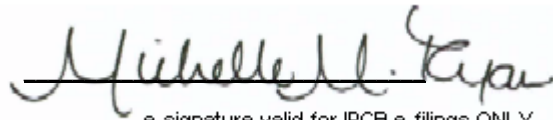
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Special Assistant Attorney General

Illinois Environmental Protection Agency  
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P.O. Box 19276  
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**CERTIFICATION**

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument entitled MOTION FOR RECONSIDERATION are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

A handwritten signature in black ink, appearing to read "Michelle M. Ryan", is written over a horizontal line. The signature is cursive and somewhat stylized.

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Michelle M. Ryan  
Special Assistant Attorney General

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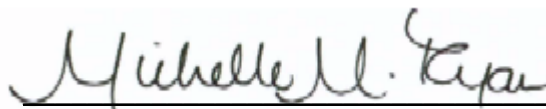
**PROOF OF SERVICE**

I hereby certify that I did on the 14<sup>th</sup> day of October, 2008, send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled MOTION FOR RECONSIDERATION

To: Upper Rock Island County Landfill, Inc. C T Corporation System  
Attention: Dave Geier 208 South LaSalle Street, Suite 814  
17201 20<sup>th</sup> Avenue N Chicago, IL 60604  
P.O. Box 159  
East Moline, IL 61244

and an electronic copy of the same foregoing instrument on the same date via electronic filing

To: John Therriault, Acting Clerk  
Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601



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