

ILLINOIS POLLUTION CONTROL BOARD
November 5, 2008

COUNTY OF VERMILION, ILLINOIS)
)
 Complainant,)
)
 v.) AC 08-38
) (Administrative Citation)
 ILLINOIS LANDFILL, INC.,)
)
 Respondent.)

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

On June 23, 2008, the County of Vermilion, Illinois (County) timely filed an administrative citation against Illinois Landfill, Inc. (respondent). *See* 415 ILCS 5/31.1(c) (2006); 35 Ill. Adm. Code 101.300(b), 108.202(c). The administrative citation concerns a sanitary landfill located in Hoopeston, Vermilion County, designated with Site Code No. 1830450009, and operated under Illinois Environmental Protection Agency Operating Permit No. 1996-301LF Mod 26. For the reasons below, the Board finds that respondent violated the Environmental Protection Act (Act) (415 ILCS 5 (2006)) and orders respondent to pay \$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 Illinois Environmental Protection Agency (Agency) or, if the Agency has delegated the authority, by a unit of local government, and only for limited types of alleged violations at sanitary landfills or unpermitted open dumps. *See* 415 ILCS 5/3.305, 3.445, 21(o), (p), 31.1(c), 42(b)(4), (4-5) (2006); 35 Ill. Adm. Code 108.

In this case, the County alleges that respondent violated Section 21(o)(12) of the Act (415 ILCS 5/21(o)(12) (2006)) on April 21, 2008, by conducting a sanitary landfill operation in a manner resulting in the failure to collect and contain litter from the site by the end of the operating day. According to the administrative citation, respondent is the operator of the landfill. The County asks the Board to impose a \$500 civil penalty on respondent. As required, the County served the administrative citation on respondent within "60 days after the date of the observed violation." 415 ILCS 5/31.1(b) (2006); *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 violation alleged and impose the corresponding civil penalty. *See* 415 ILCS 31.1(d)(1) (2006); 35 Ill. Adm. Code 101.300(b), 108.204(b), 108.406. Here, any petition for review was due by July 22, 2008. Respondent failed

to timely file a petition for review. Accordingly, the Board finds that respondent violated Section 21(o)(12) of the Act.

The civil penalty for violating any provision of subsection (o) of Section 21 is \$500 for each violation. *See* 415 ILCS 5/42(b)(4) (2006); 35 Ill. Adm. Code 108.500(a). Because there is one violation of Section 21(o), the total civil penalty is \$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 Board finds that respondent violated Section 21(o)(12) of the Environmental Protection Act (415 ILCS 5/21(o)(12) (2006)).
2. Respondent must pay the total civil penalty amount of \$500 no later than December 5, 2008, which is the 30th day after the date of this order. Respondent must pay the civil penalty by two separate certified checks, each in the amount of \$250, one made payable to the County of Vermilion, Illinois, and the other made payable to the Illinois Environmental Protection Fund. Each certified check must include the case number, case name, and respondent's Federal Employer Identification Number.
3. Respondent must send the \$250 certified check payable to the County of Vermilion, Illinois, along with the respective remittance form, to:

Vermilion County Health Department
200 South College Street
Danville, Illinois 61832
4. Respondent must send the \$250 certified check payable to the Illinois Environmental Protection Trust Fund, along with the respective remittance form, to:


Fiscal Services
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

6. Payment of this penalty does not prevent future prosecution if the violation continues.

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) (2006); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 5, 2008, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

JUN 23 2008

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF VERMILION, ILLINOIS,)
)
Complainant,)
)
v.)
ILLINOIS LANDFILL,)
INC.,)
Respondent.)

ORIGINAL

AC No. 08-38

County File No. 08-02

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 4(e) and 31.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

FACTS

1. Respondent, Illinois Landfill, Inc., is, and was at all times relevant to this Administrative Citation, the operator of a facility located in Hoopeston, County of Vermilion, State of Illinois.
2. Said property is operated as a sanitary landfill, operated under Illinois Environmental Protection Agency Operating Permit No. 1996-301LF Mod 26, and designated with Illinois Environmental Protection Agency Site Code No. 1830450009.
3. On April 21, 2008, LeeAnn Chezem of the Vermilion County Health Department inspected the above-described property. LeeAnn Chezem's Affidavit and a copy of her inspection report are attached hereto and made a part hereof by reference.

VIOLATIONS

On the basis of the direct observation of LeeAnn Chezem, the County of Vermilion has determined that on April 21, 2008, Respondent was conducting a sanitary landfill operation at the above-described facility, which is required to have a permit pursuant to 415 ILCS 5/21(d) of the Act, 415 ILCS 5/21(d), in a manner which resulted in the following condition:

litter from a previous operating day was present at the site at the time of the above-mentioned observations and inspection, in violation of section 21(o)(12) of the Act, 415 ILCS 5/21(o)(12), which provides no person shall conduct a sanitary landfill operation in a manner which results in litter remaining from any previous operating day.

CIVIL PENALTY

Pursuant to section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4), Respondent herein is subject to a civil penalty of Five Hundred Dollars (\$500.00) for each of the above-mentioned violations. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein, 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 Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each violation.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

You have the right to contest this Administrative Citation under section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. 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 will be issued by the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Vermilion County State's Attorney's Office, 7 North Vermilion Street, Danville, Illinois 61832.

If you acknowledge the violation cited herein, the civil penalty specified above shall be due and payable no later than July 18, 2008. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof and have not paid the civil penalty by the due date stated above, or if you elect to contest this Administrative Citation, any judgment rendered shall specify the due date of the statutory civil penalty and any costs assessed against you.

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

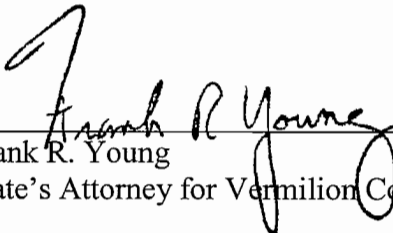
(1) the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276; and

(2) the County of Vermilion, Illinois, and mailed to the attention of Vermilion County Health Department, 200 South College Street, Danville, Illinois 61832.

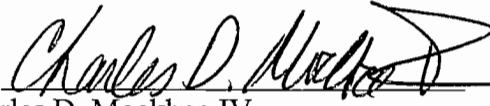
Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Vermilion County State's Attorney may initiate proceedings in the Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty and any hearing costs of the Illinois Pollution Control Board, the State's Attorney's Office will seek to recover its costs of litigation.

Dated: 12/17/08



Frank R. Young
State's Attorney for Vermilion County

By: 

Charles D. Mockbee IV
Assistant State's Attorney

Prepared by:
Charles D. Mockbee IV
Office of the State's Attorney
7 N. Vermilion St.
Danville, IL 61832
217-554-7750

REMITTANCE FORM TO ILLINOIS EPA

IN THE MATTER OF)
ILLINOIS LANDFILL) AC No. _____
INC.,) County File No. 08-02
)
Respondent)

Facility/Property: Illinois Landfill, Inc.

County: Vermilion

Date of Inspection: April 21, 2008

Site Code No.: 1830450009

Civil Penalty to Illinois EPA: \$250.00 for each violation = \$250.00

Date Remitted: _____

SSN/FEIN No.: _____

Signature: _____

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the the Illinois Environmental Protection Trust Fund. Be sure your check is enclosed with this Remittance Form and mail to: Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

REMITTANCE FORM TO VERMILION COUNTY HEALTH DEPARTMENT

IN THE MATTER OF)
ILLINOIS LANDFILL)
INC.,)
Respondent)

AC No. 08-38
County File No. 08-02

RECEIVED
CLERK'S OFFICE

JUN 23 2008

STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

Facility/Property: Illinois Landfill, Inc.

County: Vermilion

Date of Inspection: April 21, 2008

Site Code No.: 1830450009

Civil Penalty to County: \$250.00 for each violation = \$250.00

Date Remitted: _____

SSN/FEIN No.: _____

Signature: _____

NOTE

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