

ILLINOIS POLLUTION CONTROL BOARD  
July 15, 2010

COUNTY OF OGLE, )  
 )  
 Complainant, )  
 )  
 v. ) AC 10-4  
 ) (Administrative Citation)  
 KATHY KNUTSON, STEVE KNUTSON, )  
 and DAN BOCKER. )  
 )  
 Respondents. )

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

For the reasons below, the Board (1) grants the motion of respondent Dan Bocker to vacate the Board's November 19, 2009 entry of a default judgment against him and (2) accepts the parties' proposed settlement of the case and dismissal of the petition for review of respondents Kathy and Steve Knutson. In this opinion, the Board provides background on the case before turning to the motion to vacate and the proposed settlement.

The County of Ogle (County) timely filed an administrative citation on September 1, 2009, against Kathy and Steve Knutson (Knutsons) and Dan Bocker (Bocker) (collectively, respondents). The County alleged that on July 6 and 7, 2009, respondents violated Sections 21(p)(1), (p)(3), and (p)(7) of the Environmental Protection Act (Act) (415 ILCS 5/21(p)(1), (p)(3), (p)(7) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter, open burning, and the deposition of general construction or demolition debris. The violations allegedly took place at the Knutsons' facility, where Bocker was allegedly the contractor. The facility is located at 9413 W. Henry Road in Polo, Ogle County, designated with Site Code No. 1418015002, and known to the Illinois Environmental Protection Agency as the "Knutson/Bocker" site.

Only the Knutsons timely filed a petition to contest the administrative citation, which the Board accepted on November 19, 2009. Because Bocker did not file a petition, the Board's November 19, 2009 order entered a default judgment against Bocker, finding that he violated Sections 21(p)(1), (p)(3), and (p)(7) of the Act as alleged in the citation. *See* 415 ILCS 5/31.1(d)(1) (2008). The Board withheld issuing a final order imposing the corresponding civil penalty on Bocker until the Board reached its final determination regarding the Knutsons.

On July 12, 2010, Bocker filed a motion to vacate (Mot. Vac.) the November 19, 2009 default judgment entered against him. Bocker states that he "has been involved with the Complainant and the other Respondents in attempting to settle" the administrative citation. Mot. Vac. at 1. Bocker represents that the County has no objection to his motion to vacate. *Id.* Bocker further states:

All parties have reached a settlement agreement to resolve the pending issues and Respondent, Bocker, has agreed to be jointly and severally liable pursuant to the settlement agreement and Agreed Order. *Id.*

On July 8, 2010, the parties filed a “Stipulation of Settlement and Dismissal of Respondents Knutsons’ Petition for Administrative Review” (Stip.). The County, the Knutsons, and Bocker are parties to the stipulation. Under its terms, all three respondents admit that they violated Sections 21(p)(1) and 21(p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2008)) by causing or allowing the open dumping of waste in a manner resulting in litter and the deposition of general construction or demolition debris. Stip. at 2. Respondents agree to pay the statutory civil penalty of \$1,500 per violation. *Id.* The stipulation states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* at 3. The stipulation also provides for the dismissal of the Knutsons’ petition contesting the administrative citation. *Id.*

The Board accepts the stipulation and proposal for settlement. To implement the stipulation, the Board grants Bocker’s motion to vacate the November 19, 2009 default findings of violation against him. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2008)), the Board therefore finds that the Knutsons and Bocker violated Sections 21(p)(1) and (p)(7) of the Act (415 ILCS 5/21(p)(1), (p)(7) (2008)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2008)) establishes a civil penalty of \$1,500 for each of these violations. The Board accordingly assesses a total civil penalty of \$3,000. To effectuate the parties’ intent that respondents pay a total civil penalty of \$3,000, the Board dismisses the alleged violation of Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2008)).

This opinion constitutes the Board’s finding of fact and conclusions of law.

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The Board finds that respondents violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act (415 ILCS 5/21(p)(1), (p)(7) (2008)).
3. Respondents must pay a civil penalty of \$3,000 no later than August 16, 2010, which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty by certified checks or money orders. The case number, case name, and respondents’ respective social security numbers must be included on the certified checks or money orders.
4. \$1,500 of the civil penalty must be made payable to the Illinois Environmental Protection Trust Fund and sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

5. \$1,500 of the civil penalty must be made payable to the Ogle County Solid Waste Fund and sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
7. The Board dismisses the alleged violation of Section 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(3) (2008)) and the Knutson's petition to contest the administrative citation.

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) (2008); *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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 15, 2010, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION**

**RECEIVED**  
CLERK'S OFFICE  
SEP 03 2009  
STATE OF ILLINOIS  
Pollution Control Board

County of Ogle, )  
)  
Complainant, )  
)  
v. )  
)  
)  
Kathy Knutson, Steve Knutson, and )  
Dan Bocker, )  
)  
Respondents )

AC# 10-4

ORIGINAL

**JURISDICTION**

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2005), and delegated to Ogle County pursuant to 415 ILCS 5/4(r) and 415 ILCS 5/31.1.

**FACTS**

1. Respondents Kathy Knutson and Steve Knutson are the present owners and operators and are in possession and control of a facility located at 9413 W. Henry Road, Polo, Illinois, located in the County of Ogle, State of Illinois.
2. Respondent Dan Bocker was the contractor of the above-mentioned facility at the time of the allegations.
3. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 1418015002. The facility is known to the Agency as Knutson/Bocker.
4. That on July 6, 2009 (the initial inspection upon which this AC was based on) and July 7, 2009 (a follow-up inspection), Joy K. Bliton, Field Inspector, Ogle County Solid Waste

Management Department, inspected the facility.

### **VIOLATIONS**

On the basis of Field Inspector, Joy K. Bliton's direct observation, she has determined that Respondents Kathy Knutson and Steve Knutson and Respondent Dan Bocker have caused or allowed open dumping at the above-described facility in a manner that has violated the Illinois Environmental Protection Act (hereinafter, the "ACT") as follows:

1. The Respondents have caused or allowed littering in violation of 415 ILCS 5/21(p)(1).
2. The Respondents have caused or allowed open burning in violation of 415 ILCS 5/21(p)(3).
3. The Respondents have caused or allowed the deposition of general construction or demolition debris as defined in Section 3.160(a) in violation of 415 ILCS 5/21(p)(7)(I).

### **CIVIL PENALTY**

In accordance with 415 ILCS 5/42 (b)(4), the Respondents are subject to a civil penalty of \$1,500.00 for each violation specified above. This is a total of \$4,500.00 for this Citation. Additionally, should the Respondents elect to petition the Illinois Pollution Control Board under the review process described below, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, the Respondents shall be assessed the associated hearing costs incurred by Ogle County and by the Illinois Pollution Control Board. The hearing costs would be in addition to the fine.

If the Respondents acknowledge the violations cited herein above, the civil penalty shall be due and payable no later than thirty-five (35) days from the date of service hereof. If the

Respondents do not petition the Pollution Control Board for review of the Administrative Citation within thirty-five (35) days of service of the Administrative Citation, or contest the Citation, any judgment that may be rendered against the Respondents shall specify the due date of the civil fine and any additional costs assessed against you.

Respondents shall complete and return the enclosed Remittance Forms to ensure proper documentation of payment. When payment is made, checks shall be made payable in equal amounts (\$2250, or 50% of the total penalty each) to:

- A. Illinois Environmental Protection Trust Fund, mailed to the attention of Fiscal Services, Illinois Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276; and
- B. Ogle County Solid Waste Fund, Ogle County Treasurer, P.O. Box 40, Oregon, Illinois 61061.

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 Respondents' 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, the law allows for the accumulation and payment of interest on the remaining unpaid balance, from the date the payment is due until the date payment is received. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and any interest, the Ogle County State's Attorney may seek to recover their costs of litigation.

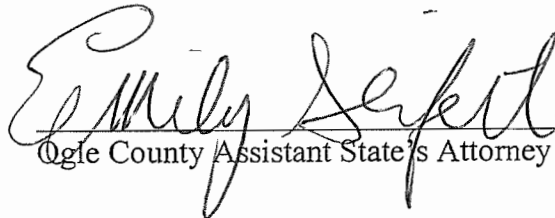
**PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION**

Respondents have the right to contest this Administrative Citation (*See* 415 ILCS 5/31.1).

If Respondents elect to contest this Administrative Citation, Respondents must file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review must also be sent to the Ogle County State's Attorney. **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 against Respondents shall be entered by the Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Illinois Pollution Control Board, James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. Copies of the Petition also must be sent to the Ogle County State's Attorney's Office, 106 S. 5<sup>th</sup> Street, Suite 110, Oregon, Illinois 61061; and Ogle County Solid Waste Management Department, 909 West Pines Road, Oregon, Illinois 61061.

DATED: 9/1/09

  
Ogle County Assistant State's Attorney

CC: IEPA Rockford  
IEPA Springfield  
OCSWMD File

REMITTANCE FORM #1

County of Ogle, )  
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 Complainant, )  
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 Respondents )

AC# 10-4

**RECEIVED**  
 CLERK'S OFFICE  
 SEP 03 2009  
 STATE OF ILLINOIS  
 Pollution Control Board

ORIGINAL

FACILITY: Knutson/Bocker  
 COUNTY: Ogle  
 DATE OF INSPECTION: 07/06/2009  
 SITE CODE: 1418015002  
 CIVIL PENALTY: \$2,250.00 (50% of \$4,500.00 penalty to Ogle County)

Date Remitted \_\_\_\_\_  
 SS/FEIN # \_\_\_\_\_  
 Signature \_\_\_\_\_

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Ogle County Solid Waste Fund  
 Ogle County Treasurer  
 P.O. Box 40  
 Oregon, IL 61061



REMITTANCE FORM #2

RECEIVED  
CLERK'S OFFICE

SEP 03 2009

STATE OF ILLINOIS  
Pollution Control Board

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10-4

ORIGINAL

FACILITY: Knutson/Bocker  
 COUNTY: Ogle  
 DATE OF INSPECTION: 07/06/2009  
 SITE CODE: 1418015002  
 CIVIL PENALTY: \$2,250.00 (50% of \$4,500.00 penalty to IEPA)

Date Remitted \_\_\_\_\_  
 SS/FEIN # \_\_\_\_\_  
 Signature \_\_\_\_\_

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Fiscal Services  
 Illinois Environmental Protection Agency  
 1021 North Grand Avenue East  
 P.O. Box 19276  
 Springfield, IL 62794-9276