

ILLINOIS POLLUTION CONTROL BOARD
May 3, 2007

COUNTY OF OGLE,)
)
Complainant,)
)
v.) AC 07-47
) (Administrative Citation)
ROCHELLE WASTE DISPOSAL, LLC,)
CLYDE A. GELDERLOOS, Chief Operator,)
and CITY OF ROCHELLE,)
)
Respondents.)

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

On March 13, 2007, the County of Ogle (County) timely filed an administrative citation against Rochelle Waste Disposal, LLC, Clyde A. Gelderloos and the City of Rochelle (respondents). *See* 415 ILCS 5/31.1(c) (2004); 35 Ill. Adm. Code 108.202(c). The administrative citation concerns a site commonly known as Rochelle Municipal #2 Landfill designated with Site Code No. 1418030020, and located at 6513 S. Mulford Road in Rochelle, Ogle County. For the reasons below, the Board finds that respondents violated the Environmental Protection Act (Act) (415 ILCS 5 (2004)) and orders respondents 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 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) (2004); 35 Ill. Adm. Code 108.

In this case, the County alleges that respondents violated Section 21(o)(5) of the Act (415 ILCS 5/21(o)(5) (2004)) by conducting a sanitary landfill operation in a manner which resulted in uncovered refuse remaining at the conclusion of an operating day. The County asks the Board to impose a \$500 civil penalty on respondents. As required, the County served the administrative citation on respondents 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 a 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) (2004); 35 Ill. Adm. Code 108.204(b), 108.406. Here, any petition for review was due on April 16, 2007. Respondents failed to timely

file a petition. Accordingly, the Board finds that respondents violated Section 21(o)(5) 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 is only one violation, 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. Respondents must pay a civil penalty of \$500 no later than June 4, 2007, which is the first business day following the 30th day after the date of this order.
2. Respondents must pay the civil penalty by certified check or money order, made payable to the Ogle County Solid Waste Fund.
3. Respondents must send the certified check or money order and the remittance form to:

Ogle County Treasurer
Ogle County Courthouse
P.O. Box 40
Oregon, Illinois 61061
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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 3, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant 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 Ogle)	
)	
Complainant,)	
)	
v.)	AC 07- 47
)	(Administrative Citation)
Rochelle Waste Disposal, LLC, and)	
Clyde A. Gelderloos, Chief Operator,)	
and City of Rochelle,)	
)	
Respondents.)	

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/31.1 (2004) and delegated to Ogle County pursuant to 415 ILCS 5/4 (r).

FACTS

1. That Respondent, Rochelle Waste Disposal, L.L.C., is the present operator of a facility located at 6513 S. Mulford Road, Rochelle, in the County of Ogle, State of Illinois.
2. That Respondent, Clyde A. Gelderloos, is the Chief Operator of the above-referenced facility.
3. That Respondent, City of Rochelle, is the permitted owner of said facility.
4. That said facility, Rochelle Municipal #2 Landfill, is operated as a sanitary landfill, operating under Illinois Environmental Protection Agency Operating Permit No. 1994-547-LFM, and designated with Site Code No. 1418030020.
5. That Respondents have owned or operated said facility at all times pertinent hereto.
6. That several citizen complaints were made to the Ogle County Solid Waste Management Department in weeks prior to the inspection alleging that the Operator was failing to cover the waste at the site adequately at the conclusion of several operating days.

7. That in response to such complaints, Joy K. Bliton of the Ogle County Solid Waste Management Department inspected said facility from outside of the facility fence on Saturday, January 13, 2007, after it had closed for the day.

VIOLATIONS

On the basis of direct observation by Joy K. Bliton, the County of Ogle has determined that Respondents were conducting a sanitary landfill operation at the above-described facility, which is required to have a permit pursuant to 415 ILCS 5/21(d), in a manner which resulted in the following conditions:

- A. Uncovered refuse remaining at the conclusion of an operating day, in violation of 415 ILCS 5/21(o)(5).

CIVIL PENALTY

Pursuant to 415 ILCS 5/42(b)(4), Respondents herein are 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 Respondents elect to petition the Illinois Pollution Control Board under the review process described herein below, and if there is a finding of the violations alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by Ogle County and the Illinois Pollution Control Board, in addition to the Five Hundred Dollar (\$500.00) statutory penalty for each finding of violation.

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

When payment is made, Respondents check should be made payable to Ogle County Solid Waste Fund and mailed to the Ogle County Treasurer, Ogle County Courthouse, P.O. Box 40, Oregon, IL 61061. Respondents shall complete and return the enclosed Remittance Form 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 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, 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 Ogle County State's Attorney shall be requested to initiate proceedings in Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty, interest, and hearing costs of Ogle County and the Illinois Pollution Control Board, if any, the Ogle County State's Attorney's Office will seek to recover their costs of litigation.

PROCEDURE FOR CONTESTING THIS 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 filed with the Ogle County State's Attorney's Office. **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 you shall be entered by the Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Illinois Pollution Control Board at the James R. Thompson Center, 100 West Randolph, Suite 11-500, Chicago, IL 60601; and a copy of said Petition for Review must also be filed with John B. Roe, Ogle County State's Attorney, at the Ogle County Courthouse, 106 S. Fifth Street, Suite 110, Oregon, IL 61061. In addition, a copy of the Petition needs to be sent to the Ogle County Solid Waste Management Department, Stepen J. Rypkema, Director, 909 West Pines Road, Oregon, IL 61061.

John B. Roe
Ogle County State's Attorney

Date: March 9, 2007

By: Emily S. Seifert
Emily S. Seifert
Assistant State's Attorney
Ogle County State's Attorney's Office
106 S. 5th Street, Suite 110
Oregon, Illinois 61061

CC: IEPA Rockford
IEPA Springfield
OCSWMD File
Ogle County State's Attorney

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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

County of Ogle)
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 Complainant,)
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 Rochelle Waste Disposal, LLC, and)
 Clyde A. Gelderloos, Chief Operator,)
 and City of Rochelle,)
)
 Respondents.)

AC 07- 47
(Administrative Citation)

FACILITY: Rochelle Municipal #2 Landfill

SITE CODE NO.: 1418030020

COUNTY: Ogle

DATE OF INSPECTION: January 13, 2007

CIVIL PENALTY: \$500.00

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

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