

ILLINOIS POLLUTION CONTROL BOARD  
November 2, 1978

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 77-258  
 )  
 MARVIN WILDER, LARRY BAKER, JO )  
 FLAIRTY, MARTHA LEWIS, RUTH BAKER )  
 AND CHARLES BAKER, )  
 )  
 Respondents. )

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

On October 3, 1977, the People of the State of Illinois (People) filed a Complaint against several Respondents for various violations of the Act and the Solid Waste Regulations: Chapter 7 of the Board's Rules and Regulations. On January 12, 1978, the People filed an Amended Complaint. A hearing was held on September 29, 1978, in Robinson, Illinois. No citizen witnesses attended. At the hearing, three stipulations and proposals for settlement were submitted. The first stipulation represented an agreement between the People and Jo Flairty, Mary Lewis, Ruth Baker and Charles Baker (Stip. No. 1); the second represented an agreement between the People and Larry Baker (Stip. No. 2); and the third represented an agreement between the People and Marvin Wilder (Stip. No. 3).

The Amended Complaint alleged the following violations: that, since June 1, 1977, Respondent Marvin Wilder operated and Respondents Larry Baker, Jo Flairty, Martha Lewis, Ruth Baker and Charles Baker allowed operation of a refuse disposal site in Crawford County without a permit, in violation of Section 21(e) of the Environmental Protection Act (Act) and Rule 202 of Chapter 6; that operating and allowing operation of said site constitutes open dumping in violation of Section 21(b) of the Act; and that, since June 1, 1977, Respondent Marvin Wilder failed to provide daily, intermediate and final cover, in violation of Section 21(b) of the Act.

In the various Stipulations filed herein, the parties stipulate that Respondents Larry Baker, Ruth Baker, Charles Baker, Jo Flairty and Martha Lewis are the owners of a 276 acre farm near Oblong, Illinois. On June 1, 1977, Larry Baker entered into an agreement with Marvin Wilder allowing Wilder to dump on the farm refuse which he hauled from customers for a fee. Wilder did not discuss the agreement with the other owners of the property. On July 1, 1973, Larry Baker entered into a contract with the other owners of the farm to purchase the farm from them. From July 1, 1973 to on or about March 31, 1977, Larry Baker had control of the site. He failed to make any payments, however, and on approximately March 31, 1977, the ownership of the site became again Larry Baker and the other owners with whom he had entered into a contract for sale. Nevertheless, Larry Baker has retained all actual control of the land.

In Stipulation No. 2, Respondent Larry Baker admits that he allowed refuse to be deposited at the site without a permit. In Stipulation No. 1, Respondents Ruth Baker, Charles Baker, Jo Flairty and Martha Lewis admit that they allowed refuse to be deposited on the site without a permit, but they and the People agree that any dumping on the land was without their knowledge or consent. In Stipulation No. 3, Respondent Marvin Wilder admits that he at no time had a permit to operate a refuse disposal site and that he at no time applied daily, intermediate or final cover to refuse at the site. The Stipulations indicate that on December 28, 1977, after the original Complaint was filed in this matter, an investigator for the Illinois Attorney General's office inspected the site and noted that the refuse was covered with material and that the site appeared to be in compliance with the Act and the Regulations.

The Board finds that Respondents did commit the violations alleged in the Amended Complaint. The Board has considered the factors outlined in Section 33(c) of the Act. In the Terms of Settlement of the various Stipulations, all the Respondents agree to cease and desist all violations and to ensure that all refuse which had been deposited at the site is covered and that the landfill will be closed in accordance with the Act and the Regulations. In addition, Marvin Wilder agrees to pay a penalty of \$200.00 and Larry Baker agrees to pay a penalty of \$100.00. Because Respondents Ruth Baker, Charles Baker, Martha Lewis and Jo Flairty did not directly authorize and had no knowledge of dumping at the site, they and the People suggest that a penalty would not further the purposes and policy of the Act.

The Board finds the Terms of Settlement incorporated in the three Stipulations to be sufficient to ensure that the environment is protected and that no further violations occur. We furthermore find that, in light of Marvin Wilder's actual operation of the site, Larry Baker's authorization of such operation, and the other Respondents' lack of knowledge of the operation, the penalties assessed Marvin Wilder and Larry Baker and the suggestion of no penalty against the other Respondents are reasonable. We, therefore, accept the Terms of Settlement incorporated in the three Stipulations.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that:

- 1) Since on or about June 1, 1977, Respondents Marvin Wilder, Larry Baker, Jo Flairty, Martha Lewis, Ruth Baker and Charles Baker caused or allowed operation of a refuse disposal site without a valid operating permit, in violation of Section 21(e) of the Environmental Protection Act and Rule 202 of the Solid Waste Regulations.
- 2) Since on or about June 1, 1977, Respondents Marvin Wilder, Larry Baker, Jo Flairty, Martha Lewis, Ruth Baker and Charles Baker caused or allowed open dumping in violation of Section 21(b) of the Act.
- 3) Since on or about June 1, 1977, Respondent Marvin Wilder failed to provide daily, intermediate and final cover to the refuse at said site, in violation of Section 21(b) of the Act and Rule 305 of the Solid Waste Regulations.
- 4) Respondents shall cease and desist all violations of the Act and the Regulations promulgated thereunder at said site.
- 5) Respondents shall ensure that all refuse heretofore deposited at said site shall be covered and that the landfill shall be closed in conformance with the Act and the Regulations promulgated thereunder.

6) Respondent Marvin Wilder shall within 35 days of the date of this Order pay a penalty of \$200.00, which shall be made payable to the State of Illinois and shall be mailed to:

Ms. Loretta Weber  
Assistant Attorney General  
Environmental Control Division  
188 West Randolph Street  
Suite 2315  
Chicago, Illinois 60601

7) Respondent Larry Baker shall within 35 days of the date of this Order pay a penalty of \$100.00 to the State of Illinois, penalty payment to be mailed to the address specified in paragraph (6) above.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 2<sup>ND</sup> day of November, 1978 by a vote of 4-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board