

ILLINOIS POLLUTION CONTROL BOARD
October 30, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-211
)
GUY MARLIN,)
)
Respondent.)

MR. PATRICK J. CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. JOHN J. KUROWSKI, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the August 7, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that, from November 29, 1976 until August 7, 1978, Mr. Guy Marlin operated a solid waste management site ("site") in St. Clair County, Illinois without an operating permit from the Agency in violation of Rule 202(a) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II alleged that, from November 29, 1976 until August 7, 1978, Mr. Marlin accepted liquid and hazardous wastes (including, but not limited to, toluene, xylene, and ethylbenzene) at the site without authorization by Agency permit in violation of Rules 301 and 310(b) of Chapter 7 and Section 21(b) of the Act. Count III alleged that, on December 24, 1976, Mr. Marlin caused or allowed open burning of the aforementioned hazardous and liquid materials at the site in violation of Rules 301 and 311 of Chapter 7; Rule 502(a) of Chapter 2: Air Pollution Control Regulations ("Chapter 2") and Section 9(c) of the Act. Count IV alleged that Morris Industries, a Delaware corporation d/b/a Lanson Chemical Company (which initially was also a Respondent in this case), from November 29, 1976 until August 7, 1978, caused or allowed the disposal of refuse (including hazardous and liquid wastes such as toluene, xylene, and ethylbenzene) at the site in violation of Section 21(f) of the Act.

On January 10, 1980, the Board entered an Order which mandated that the parties expedite proceedings in this case. On March 3, 1980, the Agency filed a Motion to Dismiss without prejudice the

Complaint as to the Respondent Morris Industries d/b/a Lanson Chemical Company ("Lanson Chemical Company"). As grounds for this motion, the Agency noted that it recently found out that Respondent Lanson Chemical Company "was adjudged bankrupt on May 23, 1978 in cause no. BK-77-04530-E by the United States District Court for the Eastern District of Illinois." On March 20, 1980, the Board entered an Order dismissing this case with prejudice as to Respondent Lanson Chemical Company. A hearing was held on August 26, 1980 at which no members of the public were present. The parties filed a Statement of Stipulated Settlement on September 18, 1980.

The stipulated facts indicate that there were about 100 barrels of waste "already present on the site" when Mr. Marlin and his wife bought their property in 1976. (Stip. 2; R. 2). The Respondent then allowed the Lanson Chemical Company to deposit about 370 barrels of liquid and other wastes at the site for disposal. (Stip. 2; R. 2-3). It is also stipulated that "Guy Marlin did not receive any money from Lanson Chemical Company for disposal of the barrels and their contents at the site." (Stip. 3; R. 3). However, the Respondent, Guy Marlin, had no development or operating permit from the Agency to operate a solid waste facility on the property, and had no written authorization from the Agency to allow the acceptance of liquid wastes at the site. (Stip. 2; R. 3). On December 24, 1976, a fire at the site "burned many, but not all, of the barrels and their contents." (Stip. 2; R. 3). Subsequently, Mr. Marlin "removed most, but not all, of the barrels" from the property. (Stip. 2-3; R. 3).

While Mr. Marlin did not admit liability for any of the allegations charged in the Complaint, he entered into a stipulated settlement in order to resolve this matter. (Stip. 3; R. 2). The proposed settlement agreement provides that the Respondent, Mr. Guy Marlin, agrees to: (1) not accept any additional refuse for disposal at the site unless an Agency permit for such disposal is first obtained; (2) promptly complete the removal of all remaining barrels as soon as an Agency approved site is available to take the material, and (3) pay a stipulated penalty of \$100.00 . (Stip. 3; R. 3-4).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, Mr. Guy Marlin, has violated Rules 202(a), 301, 310(b), and 311 of Chapter 7: Solid Waste Regulations; Rule 502(a) of Chapter 2: Air Pollution Control Regulations, and Sections 9(c), 21(b), and 21(e) of the Act. The stipulated penalty of \$100.00 is hereby assessed against Respondent Marlin.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Mr. Guy Marlin, has violated Rules 202(a), 301, 310(b), and 311 of Chapter 7: Solid Waste Regulations; Rule 502(a) of Chapter 2: Air Pollution Control Regulations, and Sections 9(c), 21(b), and 21(e) of the Illinois Environmental Protection Act.

2. Within 30 days of the date of this Order, subject to acceptability at an approved site, the Respondent shall take all the barrels and their contents that remain at his site to a landfill which has been approved for disposal of such material. However, if no approved site is available to take this material within the 30 day time period, then the Respondent agrees to complete the removal of the barrels and their contents as soon as an approved site is available to take the material.

3. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$100.00 to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

4. The Respondent shall comply with all the terms and conditions of the Statement of Stipulated Settlement filed September 18, 1980, which is incorporated by reference as if fully set forth herein.

Chairman Dumelle and Mrs. Anderson concur.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 30th day of October, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board