## ILLINOIS POLLUTION CONTROL BOARD

June 9, 1971

ENVIRONMENTAL PROTECTION AGENCY )

v. ) PCB # 71-30

C. E. KOONS )

Opinion of the Board (by Mr. Currie):

From about 1966 into July of 1970 Mr. Koons openly dumped various waste materials on his property near Flora. (R. 13, 14). He made no attempt, despite repeated warnings, to comply with the requirements of the statutes and the Rules and Regulations for Refuse Disposal Sites and Facilities (R. 18, 19). The evidence shows no compaction (Rule 5.06), spreading (Rule 5.06), or covering of refuse (Rule 5.07); dumping over an unreasonably large area (Rule 5.03); inadequate supervision (Rule 5.02); inadequate access roads (Rule 4.03); and inadequate equipment for refuse handling (Rula 5.05), or fire prevention (Rule 4.04). Open dumping itself is forbidden not only by Rule 3.04 but by section 21 of the Environmental Protection Act. The violations are conceded. The respondent's explanation is a financial inability to operate the site in compliance with the law. (R. 76,77).

Since June 1970 Mr. Koons has determined to close the site (R. 9, 10). His duty to cover or remove all remaining refuse is clear. The Rules clearly require final covering of closed sites within six months (Rule 5.07 (b)). It has taken an inordinately and illegally long time to do this. Just before the hearing Mr. Koons borrowed the services of a farmer and his caterpillar to push some of the refuse into a pit (R. 25-28) and he expects to get the farmer back to cover it when the planting schedule permits (R. 79). One gathers a single day's work will do the trick (R. 80). Larger items such as refrigerators and tires he has begun hauling away by pickup truck; he thinks this can be accomplished with another 5 truckloads, which can be done 2 or 3 a week (R. 81).

We recognize the claim of financial difficulty, although there is nothing in the record to back up the respondent's statement that he cannot afford to run a landfill in accord with the law. Poverty is no excuse; people who haven't money to do business as the law requires shouldn't do business. Mr. Koons long continued illegal dumping after he knew it was wrong. And his efforts to close out the site have been far too lackadaisical. We cannot allow the cleanup, already delayed nearly a year since dumping ceased, to await the convenience of a nearby farmer.

Mr. Koons testified he had made no effort to employ a commercial equipment firm to do this brief and simple job for him.

Mr. Koons will be required to cease dumping at the site altogether, since he has demonstrated he lacks the resources to do so in compliance with the law; to cover or remove the remaining refuse within two weeks, as that can easily be done; and to pay a penalty of \$100 for his repeated and deliberate violations. This sum, we add, would be considerably higher but for his uncontested assertion of poverty. Any failure to comply with this order will be subject to penalties more severe.

This opinion constitutes the Board's findings of fact and conclusions of law.

## ORDER

- 1) C. E. Koons shall not cause or allow the deposit of refuse on his property near Flora.
- 2) C. E. Koons shall either remove from the premises or cover, in accordance with the Rules and Regulations for Refuse Disposal Sites and Facilities, all refuse presently on the site, no later than June 23, 1971.
- 3) C. E. Koons shall pay to the State of Illinois, on or before July 13, 1971 the sum of \$100 as a penalty for the violations found the the Board.

I, Regina E. Ryan, Clerk of the Board, hereby certify that the above Opinion and Order was entered on the 9th day of func., 1971.