

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-41
)
CALVIN GEISS, d/b/a C & A)
DISPOSAL COMPANY, AND)
FRED D. BENNITT,)
)
Respondents.)

NANCY BENNETT, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

DAVIS, VARSEK & DYSTRUP, ATTORNEYS AT LAW (MR. L. PARK DAVIS, OF COUNSEL), APPEARED ON BEHALF OF RESPONDENT CALVIN GEISS, d/b/a C & A DISPOSAL COMPANY.

FRED D. BENNITT APPEARED PRO SE.

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

This matter comes before the Board on the February 26, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). This Complaint alleged that Mr. Calvin Geiss, d/b/a C & A Disposal Company ("Mr. Geiss"), has conducted a refuse collection and disposal operation at a site in Will County, Illinois which is owned by Mr. Fred D. Bennitt ("Mr. Bennitt") and leased to Mr. Geiss.

Counts I and III of the Complaint alleged that the Respondents operated the sanitary landfill in such a manner as to: (1) improperly unload, spread, and compact refuse; (2) improperly maintain the slope of the working face; (3) operate without sufficient equipment, personnel, and supervision; (4) place inadequate daily, intermediate, and final cover on the site; (5) fail to properly collect litter; (6) improperly handle salvage materials; (7) allow open burning; (8) fail to provide adequate fencing and gates; (9) provide insufficient measures to monitor and control leachate, dust and vectors; (10) fail to submit the necessary water monitoring data as required by Operating Permit No. 1974-20-OP, and (11) allow the open dumping of garbage and other refuse in violation of Rules 301, 303(a), 303(b), 303(c), 304, 305(a), 305(b), 305(c), 306, 307(d), 311, 314(a), 314(c), 314(e), 314(f), 314(h), and 317 of Chapter 7: Solid

Waste Regulations ("Chapter 7") and Sections 9(a), 21(a), and 21(b) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, on May 24, 1973, June 8, 1973, October 30, 1973, April 28, 1976, May 5, 1977, and August 8, 1978, the Respondents disposed contaminants upon land in such a place and manner as to create a water pollution hazard in violation of Section 12(d) of the Act.

Count IV alleged that, on various specified occasions, the Respondents failed to comply with all the conditions and provisions of their operating and supplemental permits in that unauthorized hazardous and/or liquid wastes were accepted at the site; the filling of a new trench area began without first obtaining a supplemental permit to do so; and the necessary water monitoring data was not furnished to the Agency in violations of Rules 210, 302, and 310(b) of Chapter 7.

Count V alleged that, on various specified dates prior to July 27, 1973 (i.e., while the Illinois Department of Public Health Rules and Regulations for Refuse Disposal Sites and Facilities were still in effect), the Respondents operated the site without providing the necessary daily and final cover; without properly restricting access to the site, and without complying with the prohibition against open dumping in violation of Rules 3.04, 4.03(a), 5.02, 5.07(a), and 5.07(b) of the Illinois Department of Public Health Regulations on refuse disposal sites.

A hearing was held on July 9, 1979. The parties filed a Stipulation and Proposal for Settlement on August 1, 1979. On August 9, 1979, the Board entered an Interim Order which rejected the proposed settlement agreement because of a suspended penalty provision in the Stipulation. On November 20, 1980, the Board entered an Order which mandated that the parties expedite proceedings in this matter. A new hearing was held on January 15, 1981. On January 20, 1981, the parties filed a second Stipulation and Proposal for Settlement ("2nd Stip.").

It is stipulated that Respondent Geiss has, since at least January, 1971, operated a sanitary landfill of about 25 acres in Will County, Illinois. (2nd Stip. 1). While the Agency has contended that Respondent Bennett has owned the property in question since at least January, 1971 and leased it to Respondent Geiss, Mr. Bennett has asserted that he is merely an agent for the owners of the site. (2nd Stip. 1-2). However, Mr. Bennett "has submitted no evidence against the Agency's contention that he is the actual property owner". (2nd Stip. 2).

This sanitary landfill has been operated pursuant to an Agency operating permit and various supplemental permits which have been granted by the Agency. (See: Exhibits A, B, C, and D). In its Stipulation, the Agency has alleged "unauthorized modification of Respondents' permits" as well as operation in violation of these

permits (i.e., "causing or allowing dumping in a trench not yet permitted or approved by the Agency"). (2nd Stip. 2). Additionally, the Complainant has contended that, as a result of the utilization of improper operating methods, leaching has developed at the southern end of a trench. (2nd Stip. 3).

However, the parties have indicated that, in order to rectify matters, Respondent Geiss "has already trenched along the South end perimeter of Cell #1 as shown on George Reiter and Associates drawing #73-767-B dated October 23, 1973, or cell A of Drawing #C 78-288, dated July 10, 1978, and lined the trench with Bentonite or impermeable clay and backfilled in order to prevent the flow of leachate from said cell." (2nd Stip. 3).

Additionally, the parties have stated that Respondent Geiss is currently in substantial compliance with the Board's Solid Waste Regulations and the Act and have indicated that Mr. Geiss shall take all necessary measures to properly operate the landfill site in the future. (2nd Stip. 3-4).

The proposed settlement agreement provides that: (1) Respondent Geiss shall promptly place final cover on all trenches (and provide prompt notification and adequate proof to the Agency that the required measures have been completed) and (2) pay a stipulated penalty of \$1,100.00 in two equal monthly payments of \$550.00 each. (2nd Stip. 4-5; 2nd R. 4-5).

Moreover, Respondent Bennitt has agreed to provide Mr. Geiss "with up to 400 cubic yards of materials suitable for cover" from two specified locations so that Respondent Geiss can meet his obligations to provide the requisite final cover on all trenches. (2nd Stip. 5; 2nd R. 5-6). The parties have agreed that the "cost of the removal and placement of the material for the cover shall be borne by Respondent Geiss." (2nd Stip. 5).

According to paragraph five of the second Stipulation, it is uncontroverted that the Respondents have violated Rules 303, 305(a), 305(b), 305(c), and 306 of Chapter 7: Solid Waste Regulations. The Board will dismiss the rest of the allegations for lack of prosecution.

In evaluating this enforcement action and the second proposed settlement agreement, 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 second stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Respondents will be ordered to comply with the terms of the Second Stipulation and Proposal for Settlement and a stipulated penalty of \$1,100.00 (payable in two equal monthly payments of \$550.00 each) shall be assessed against Respondent Geiss.

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 Respondents, Calvin Geiss, d/b/a C & A Disposal Company, and Fred D. Bennett, have violated Rules 303, 305(a), 305(b), 305(c), and 306 of Chapter 7: Solid Waste Regulations.

2. The allegations in the Complaint (other than the above mentioned rule violations) are hereby dismissed.

3. Within 30 days of the date of this Order, Respondent Calvin Geiss, d/b/a C & A Disposal Company, shall pay 1/2 of the stipulated penalty of \$1,100.00 (i.e., \$550.00). Within 60 days of the date of this Order, Respondent Geiss shall pay the remaining 1/2 of the stipulated penalty of \$1,100.00 (i.e., another \$550.00). Both payments of \$550.00 shall be by certified check or money order payable to the State of Illinois, which are to be sent to:

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

4. The Respondents shall comply with all the terms and conditions of the Second Stipulation and Settlement Agreement filed on January 20, 1981, which is incorporated by reference as if fully set forth herein.

Mrs. Anderson concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 5th day of March, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board