

ILLINOIS POLLUTION CONTROL BOARD
July 12, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-107
)
 GENE ZAHRADKA,)
)
 Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, appeared on behalf of Complainant.
GENE ZAHRADKA appeared pro se.

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

The Complaint in this case alleges that Respondent violated Section 21(f) of the Environmental Protection Act (Act) by disposing of refuse at a site or facility which does not meet the requirements of the Act and regulations thereunder. Hearings were held on July 18, 1978 and September 12, 1978.

At the hearings, it was determined that Respondent was in the business of collecting refuse and disposing of it at the Taylorville Landfill located in the Southwest Quarter of the Southwest Quarter of Section 13, Township 13, North, Range 3 West of the Third Principal Meridian, in Christian County, Illinois.

Respondent admitted that on numerous occasions beginning on or about August 24, 1977 and continuing through the filing of the Complaint, April 18, 1978, refuse was hauled to the Taylorville site. The hauling continued subsequent to a November 30, 1977 letter (Exhibit No. 6) from the Division of Land/Noise Pollution Control of the Agency. The letter informed Respondent that the Taylorville Landfill was not in possession of an operating permit as required by Section 21(e) of the Act and Rule 202 of Chapter 7: Solid Waste Rules and Regulations. This issue had previously been resolved in EPA v. Harold Broverman and Theodora Baker d/b/a Taylorville Landfill, PCB 76-114, decided November 10, 1977, 28 PCB Op. 123, affirmed as modified, Harold Broverman and Theodora Baker d/b/a Taylorville Landfill v. EPA and PCB, (5th District, No. 78-32, May 25, 1979).

Alternate sites meeting the requirements of the Act and the Regulations were suggested to Respondent (Exhibit No. 6). Also noted is that it is Respondent's responsibility to ensure that the location where waste is disposed of has the required operating permit. Taylorville Landfill has not and does not meet the requirements of the Act and Regulations in that no operating permit was ever issued to the owners, nor does it meet the operational requirements.

A Notice of Enforcement (Exhibit No. 7) was issued on January 9, 1978 due to Respondent's disregard of the prior notices served and continued violation of the Act.

After review of the factors in Section 33(c) of the Act, the Board finds that continued hauling by Respondent to a site previously found to have violated the Board's rules and the Act is injurious to the public health. It is also of questionable social and economic value in light of the availability of alternate disposal sites. In particular is the Christian Community Landfill across the road from the Taylorville site (R.47-50). Compliance is reasonable and does not constitute a technical impossibility, nor does it impose an arbitrary or unreasonable hardship. A penalty of \$300 is assessed to aid in the enforcement of the Act. Respondent will be required to cease and desist from further violations of the Act.

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

ORDER

- 1) Respondent has violated Section 21(f) of the Environmental Protection Act.
- 2) Respondent shall cease and desist from any further violations of Section 21(f) of the Act.
- 3) Within 35 days of the date of this Order, Respondent shall forward the sum of \$300 by certified check or money order, payable to the State of Illinois to:

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 12th day of July, 1979 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board