

ILLINOIS POLLUTION CONTROL BOARD
July 26, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-254
)
DR. ROBERT TABBERT and)
MARGUERITE G. TABBERT,)
)
Respondents.)

MS. LORETTA A. WEBER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. JOHN ROGERS AND MR. WILLIAM KETCHAM, ATTORNEYS AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.*

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

This matter comes before the Board on the September 26, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). After various preliminary discovery pleadings, the Complainant filed a Motion for Leave to File an Amended Complaint on January 9, 1978. The Board granted the Agency's motion on January 19, 1978. This Amended Complaint alleged that, from July 27, 1976 until the date of filing of the Complaint, the Respondents operated their refuse disposal site without an Agency Operating Permit and allowed open dumping of refuse at the site in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Sections 21(b) and 21(e) of the Illinois Environmental Protection Act ("Act"). A hearing was held on June 29, 1979. The parties filed a Stipulation and Proposal for Settlement on June 29, 1979.

The Respondents, Dr. Robert Tabbert and Marguerite Tabbert, are joint tenants who own and operate a refuse disposal site ("site") located behind the Larkin Animal Hospital at 2300 Foothill Drive in Elgin, Kane County, Illinois. The property in question is within the city limits of Elgin and is in a developed area with scattered residences bordering the site. Domestic waste, which consists primarily of wood, plasterboard, bricks, concrete, asphalt and paper refuse, is accepted at the site. (Stip. 2).

It is stipulated by the parties that the Respondents have not applied for, or received, the requisite Agency Operating Permit for

*The Respondents and their attorneys were not present at the hearing itself; the Assistant Attorney General read the basic facts and an outline of the proposed settlement agreement into the record.

their refuse disposal site. (Stip. 4). Additionally, Agency inspections on August 2, 1976, September 24, 1976, February 3, 1977, February 18, 1977, March 2, 1977 and April 27, 1977 revealed inadequate daily, intermediate and final cover, inadequate spreading and compacting of refuse, insufficient operating equipment, inadequate site restriction and concealment, and other operational deficiencies. (Stip. 3-5; See: Exhibits A through J which are incorporated into the Stipulation and Proposal for Settlement).

The proposed settlement agreement provides that the Respondents shall: (1) accept no further refuse at the site; (2) cease and desist from all further violations; and (3) promptly close and place final cover on the site. Additionally, the settlement proposal states that all violations alleged in the Amended Complaint are admitted and indicates that the Respondents, Dr. Robert Tabbert and Marguerite G. Tabbert, agree jointly and severally to pay a stipulated penalty of \$1,000 .

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 Illinois Environmental Protection Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondents, Dr. Robert Tabbert and Marguerite G. Tabbert, have violated Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Sections 21(b) and 21(e) of the Act and shall cease and desist from further violations. The Respondents are hereby ordered to accept no further refuse at the site and to close and place final cover on the site in compliance with Rule 305(c) of Chapter 7: Solid Waste Regulations within 30 days of the date of this Order. The stipulated penalty of \$1,000 is hereby jointly and severally assessed against the Respondents.

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 have violated Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Sections 21(b) and 21(e) of the Act.

2. The Respondents shall cease and desist from further violations.

3. The Respondents shall accept no further refuse at the site and shall close and place final cover on the site in compliance with Rule 305(c) of Chapter 7: Solid Waste Regulations within 30 days of the date of this Order.

4. Within 45 days of the date of this Order, the Respondents, Dr. Robert Tabbert and Marguerite G. Tabbert, shall jointly and severally pay the stipulated penalty of \$1,000 , payment to be made by certified check or money order to:

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

5. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed June 29, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 26th day of July, 1979 by a vote of 4-0.

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