

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-35
)
HAROLD J. ROBERTSON, and ALBERT)
HORNSTEIN, an individual d/b/a)
U. S. SCRAP AND METAL COMPANY,)
)
Respondents.)

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. RANDALL D. WAKS, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENTS.

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

This matter comes before the Board on the February 7, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). This ten-count Complaint alleged that Respondent Harold J. Robertson ("Robertson"), who owned and operated a solid waste management site (the "site") from August 1, 1973 until April 1, 1976, and the new owner, Respondent Albert Hornstein ("Hornstein") d/b/a U. S. Scrap and Metal Company, who operated the site from April 1, 1976 until the date of the filing of the Complaint, operated with: (1) no Agency Operating Permit; (2) inadequate daily cover; (3) insufficient final cover over portions of the site; and (4) improper unloading, spreading and compacting of refuse in violation of Rules 202(b)(1), 301, 303(a), 305(a) and 305(c) 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 March 8, 1979. The parties filed a Stipulation and Proposal for Settlement on March 13, 1979.

The stipulated facts indicate that Mr. Harold J. Robertson originally owned 3.48 acres of property in Decatur, Macon County, Illinois which was utilized as a solid waste management site on which demolition debris such as wood, crushed brick and concrete was deposited. (Stip. 2-3). Respondent Robertson obtained a

Development Permit from the Agency for this site in August, 1973 and ceased accepting solid waste on his property sometime after the expiration of the Development Permit (i.e., after August 13, 1974). However, adequate cover was not placed over all filled portions of the site, although Respondent Robertson "made progress in that regard." (Stip. 3).

In the spring of 1976, Mr. Albert Hornstein purchased the property in question from Mr. Robertson. Respondent Hornstein established an industrial scrap metal business at the site after April 1, 1976, but failed to place the requisite cover over a small portion of the property. (Stip. 3). It is stipulated that, during the period of August 1, 1973 to February 7, 1978, Agency personnel had "numerous contacts" with both Respondents in regard to the need for sufficient cover on filled portions of the site. (Stip. 4). While some progress was made, certain areas of the site still remained improperly covered. (Stip. 4).

The proposed settlement agreement provides that the current property owner, Respondent Hornstein, shall follow a compliance plan which requires that he place adequate final cover over the remaining filled portions of the site within 30 days. (R. 4; Stip. 5). The parties recommend that no penalty be assessed against Respondent Hornstein, and that a stipulated penalty of \$200 be imposed against the previous owner, Respondent Robertson, for past violations of the Board's Solid Waste Regulations and the Act. (Stip. 7). The settlement proposal also provides that both Respondents have violated Rules 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act and should be ordered to cease and desist from further violations. Additionally, both parties request that Counts I, IV, V, VI, IX, and X of the Complaint be dismissed. (Stip. 5-7).

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 Harold J. Robertson and Albert Hornstein, an individual d/b/a U. S. Scrap and Metal Company, have violated Rules 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(b) of the Act and shall immediately cease and desist from further violations. The Board hereby dismisses Counts I, IV, V, VI, IX and X of the Complaint. The Board finds that no penalty shall be assessed against Respondent Albert Hornstein, d/b/a U. S. Scrap and Metal Company. However, Respondent Hornstein is ordered to provide sufficient final cover over the remaining filled portions of the site no later than 30 days after the date of the

Board Order. Respondent Harold J. Robertson shall pay the stipulated penalty of \$200 for violations of Chapter 7 and the Act.

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 Rules 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act.
2. The Respondents shall immediately cease and desist from further violations.
3. Counts I, IV, V, VI, IX and X of the Complaint are hereby dismissed.
4. Within 30 days of the date of this Order, Respondent Albert Hornstein, d/b/a U. S. Scrap and Metal Company, shall place adequate final cover over the remaining filled portions of the site.
5. Within 45 days of the date of this Order, Respondent Harold J. Robertson shall pay the stipulated penalty of \$200 , 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

6. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed March 13, 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 the above Opinion and Order were adopted on the 10th day of May, 1979 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board