

ILLINOIS POLLUTION CONTROL BOARD
May 24, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-38
)
 JOYCE E. FRYE & WATTS TRUCKING)
)
 Respondents.)

MS JUDITH S. GOODIE, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. MARVIN L. SCHRAGER, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency (Agency) against Respondents Joyce E. Frye and Watts Trucking Service, Inc., (Watts), an Iowa corporation registered and doing business in Illinois. The complaint charges violations of Section 21(b) of the Environmental Protection Act (Act): "No person shall . . . cause or allow the open dumping of any other refuse in violation of regulations adopted by the Board." The complaint alleges violations of Board Rules in connection with the ownership and operation of a thirty acre refuse disposal site on Breezy Hollow Road, 2.5 miles northwest of Viola, in the N 1/2 of Sec. 4, T. 14 N., R. 2 W. 4 PM, Mercer County, Illinois. The site is owned by Respondent Joyce E. Frye and operated by Watts through a wholly owned subsidiary, Jerry's Disposal System, Inc., an Illinois Corporation. The subsidiary, which holds an operating permit from the Agency, is not involved in this action. The following violations of the Act and Chapter 7: Solid Waste are alleged to have occurred between January 14, 1976 and October 14, 1977:

<u>Count</u>	<u>Section/Rule</u>	<u>Gravamen</u>
I	21(b) R. 305(a)	Six inches of suitable material on all exposed refuse daily.
II	21(b) R. 303(a)	Failed to deposit all refuse into toe of fill or bottom of trench.
III	21(b) R. 303(b)	Failed to rapidly spread and compact into layers not exceeding a depth of two feet.

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| IV | 21(b)
R. 305(b) | Twelve inches of suitable material on all surfaces where no additional refuse will be placed within sixty days. |
| V | 21(b)
R. 305(c) | Two feet of suitable material over entire surface not later than sixty days following placement of refuse in final lift. |
| VI | 21(b)
R. 314(c) | Caused or allowed development or operation of a sanitary landfill which does not provide fencing, gates or other measures to control access to the site. |
| VII | 21(b)
R. 306 | Failed to collect all litter from the sanitary landfill site by the end of each working day. |
| VIII | 21(b)
R. 304 | Failed to provide sufficient equipment, personnel and supervision at the site to ensure that operations complied with the permit, Act and Regulations. |

Much of 1978 was utilized in this case for discovery and motions for and against discovery. This phase terminated with the Board's Order of October 4, 1978, which denied a motion to reconsider an Order compelling Respondents to answer interrogatories (34 PCB 441). Respondents have now changed attorneys and executed a stipulation and proposal for settlement which was presented at a hearing held in Rock Island on April 17, 1979. No objection was made to the settlement. The hearing was moved to Rock Island County from adjacent Mercer County by Order of the Hearing Officer pursuant to Rule 307(b). This was done for convenience of the parties who were also involved in a related enforcement action in Rock Island County, EPA v. Watts Trucking Service, Inc., PCB 77-162.

In the stipulation Respondents admit to violations on several instances as charged in Counts I, VI, VII and VIII. These violations are inadequate daily cover, failure to restrict access when supervisory personnel were absent, litter, and failure to provide sufficient equipment or personnel at the site to ensure compliance. The Board finds Respondents guilty of the violations charged in Counts I, VI, VII, and VIII.

Respondents do not admit to the violations charged in Counts II, III and IV. These are failure to deposit refuse into the toe of the fill, failure to spread and compact and failure to apply intermediate cover in areas where no additional refuse will be placed within sixty days. The Agency "contends that" Respondents have committed these violations. The stipulation provides that: "Count V . . . final cover . . . is hereby dismissed." The Board has no evidence before it upon which to base a finding on Counts II, III, IV and V. These counts are therefore dismissed.

Respondents have agreed to pay a penalty of \$2000 and to bring the site into compliance. Respondents will operate in compliance with the Permit, Act and Rules. Watts will maintain at the site a pull scraper adequate for hauling cover material and a bulldozer with blade, adequate for spreading, compacting and pulling the scraper. In addition, Watts will maintain a D7 bulldozer at its site in Andalusia, Illinois and transfer it to the Viola site "immediately" if a bulldozer there breaks down. Within four hours of breakdown Respondents will cease accepting refuse at Viola until the D7 or comparable equipment arrives.

In addition, Respondents have agreed to submit to the Agency an application for modification of its permit which will include a list of equipment, hours of operation, number of personnel, job descriptions, hours and volume of refuse received daily. Respondents will also take steps to monitor and control formation and seepage of leachate, maintain monitoring wells and submit quarterly monitoring reports to the Agency.

The Board finds the stipulation and proposal for settlement acceptable under Procedural Rule 331. The Board has reviewed the evidence and considered Section 33(c) of the Act and finds the \$2000 penalty necessary to aid enforcement of the Act.

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

ORDER


It is the Order of the Pollution Control Board that:

1. Respondents, Joyce E. Frye and Watts Trucking Service, Inc., are in violation of Section 21(b) of the Act and Rules 304, 305(a), 306 and 314(c) of Chapter 7: Solid Waste as charged in Counts I, VI, VII and VIII of the complaint.

2. Counts II, III, IV and V of the complaint are dismissed.
3. Respondents are ordered to comply with the terms of settlement, which are incorporated herein by reference.
4. Respondents shall operate the site according to all terms and conditions of the operating permit, Act and Solid Waste Rules.
5. Within thirty days of the entry of this Order, Respondents shall pay a penalty of \$2000 by certified check or money order, payable to:

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of May, 1979 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board