

ILLINOIS POLLUTION CONTROL BOARD
November 30 , 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-76
)
 EVERETT ALLEN, d/b/a ALLEN)
 DISPOSAL COMPANY,)
)
 Respondent.)

MR. WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. THOMAS T. AUSTIN, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed on March 16, 1978 by the Environmental Protection Agency (Agency) alleging violations of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Environmental Protection Act (Act) and Rules 301, 303(b), 305(a), 305(b), 314 and Section 21(b) of the Act. A hearing was held on October 6, 1978 at which time a stipulation was presented for Board approval. No testimony was given.

The stipulation provides the following facts. Respondent causes or allows the use and operation of a solid waste management site located on approximately twenty acres within the Northeast Quarter of the Northwest Quarter of Section 4 in Township 9 South, Range 1 East of the Third Principal Meridian in Williamson County, Illinois. This is near the City of Carterville, Illinois. Respondent has caused or allowed the disposal of refuse generated by activities other than those of Respondent, from on or about January 20, 1976 to present. The site previously was a strip mine which has been worked out, leaving pits and spoil banks. Natural drainage of the site is by an unnamed creek which flows to the Cambria neck of Crab Orchard Lake approximately one and one-half miles from the site.

Agency permitted landfills in the area of Respondent's site include Desoto/Bryant, Graff, and Herrin-Hindman.

Since January 20, 1976, Respondent has not possessed an operating permit in violation of Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act. From on or about January 20, 1976 to the time of the stipulated agreement, including but not limited to twelve specific dates, Respondent has caused or allowed the use or operation of the site without placing daily cover in violation of Rules 301 and 305(a) of Chapter 7 and Section 21(b) of the Act. Respondent also admits violations of Rules 314(e) and 303(b) of Chapter 7 and Section 21(b) of the Act.

The agreement provides that at all times pertinent to the Complaint, Respondent has had a readily available supply of suitable cover material at Respondent's site for use as daily cover requirements. At all times it was technically practical and economically reasonable for Respondent to comply with the provisions of the Act and the Regulations which Respondent is charged with violating. Prior to the complaint Respondent had received several notices concerning the violations alleged. As of the date of the stipulation Respondent has substantially remedied the violations and on or about July 14, 1978, Respondent was issued a developmental and operating permit by the Agency, No. 1978-17-DE/OP. The terms of the agreement include that within forty-five days of this Order, Respondent's site shall be operated in accordance with all applicable Solid Waste Rules and specifically those enumerated. Respondent agrees to pay a \$1000 penalty to aid enforcement of the Act. All other allegations are to be dismissed.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. Respondent is found in violation of Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act and Rules 301, 303(b), 305(a) and 314(e) of Chapter 7 and Section 21(b) of the Act. All other allegations are dismissed. Respondent shall pay a penalty of \$1000. Respondent shall comply with all terms of the stipulated agreement.

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

ORDER


It is the Order of the Pollution Control Board that:

1. Everett Allen d/b/a Allen Disposal Company has violated Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Environmental Protection Act and Rules 301, 303(b), 305(a) and 314(e) of Chapter 7 and Section 21(b) of the Act. All other allegations are dismissed.

2. Within forty-five days of this Order Respondent's site shall be operated in accordance with all applicable Solid Waste Rules.
3. Respondent shall cease and desist all further violations.
4. Respondent shall pay a penalty of \$1000 within thirty-five days of this Order. Payment shall be 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 36th day of November, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board