

ILLINOIS POLLUTION CONTROL BOARD
February 15, 1979

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 77-274
)
CONRAD THOMPSON, TRI-COUNTY)
EXCAVATING AND WRECKING, INC.,)
a Delaware corporation, THOMAS)
ROWE, RICHARD E. WILDA AND)
MARIE A. WILDA,)
)
Respondents.)

MR. DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED
ON BEHALF OF COMPLAINANT.
MR. CONRAD THOMPSON APPEARED PRO SE.

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

This matter comes before the Board on a Complaint filed by the Environmental Protection Agency (Agency) on October 24, 1977. The Complaint alleges that Respondents Conrad Thompson, Tri-County Excavating, Thomas Rowe, Richard E. Wilda and Marie A. Wilda caused or allowed the use of a solid waste management site beginning on or about September 1, 1976, without an operating permit in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Environmental Protection Act.

A hearing was held on July 10, 1978, in Joliet, Illinois, at which the Complainant presented witnesses in support of the allegations against the Respondent Conrad Thompson. While no party to this action has submitted a formal motion to dismiss any Respondent to this Complaint, the Board finds no evidence in the record regarding Thomas Rowe, Richard E. Wilda and Marie A. Wilda that constitutes a violation of the Act or Board rules. The Board will hereby dismiss these named Respondents as parties to this Complaint.

The landfill site known as the Lind Road property is located on three acres of land formerly used in a sand pit operation on the east side of the City of Joliet, Illinois. During the hearing, Mr. Thompson testified that he had operated this landfill site since 1968. The Respondent, Mr. Thompson, has been secretary and treasurer of Tri-County Excavating and Wrecking, Inc. since January 2, 1976, but the record does not show that Mr. Thompson operated the site in question under the name of the Respondent, Tri-County Excavating and Wrecking, Inc. Testimony indicates that Mr. Thompson was allowed to dump his demolition waste and other debris at the site free of charge; others were permitted to deposit non-putrescible wastes with the permission of Mr. Thompson or the owner of the land. Mr. Thompson was also responsible for cleaning up and maintaining the site (R. 112-13, 115, 120-22).

According to the testimony in the record, the Will County Health Department (Department) and the Illinois Environmental Protection Agency had informed Mr. Thompson on numerous occasions of the continuing operations and permit violations. In letters dated September 15, 1976, and March 4, 1977 (Exhibits E and F), the Will County Health Department sent Mr. Thompson notice of the violations. Joseph Ancel of the Department testified that he personally informed Mr. Thompson that the Lind Road landfill site required an operating permit from the Agency. On November 12, 1976, Charles Grigalauski of the Agency testified to conversations in which the Respondent Mr. Thompson was informed of the need of an operating permit. Mr. Thompson testified that Mr. Grigalauski offered assistance in filling out the permit application. However, the application was rejected and returned by the Agency and Mr. Thompson made no further attempt to refile or obtain an operating permit (R. 74-75, 113-14, 125, 131).

Testimony from witnesses who conducted field investigations of the Lind Road property indicate that the landfill was operated without regard for proper disposal procedures required by this State. Agency witness, Bert Neill, a field investigator for the Department, visited the site on approximately nineteen separate occasions and observed vast amounts of exposed and improperly covered demolition material, wood, plaster board and other debris dumped in the landfill. On other occasions, Joseph Ancel of the Department and Charles Grigalauski and Henry Cobo of the Agency observed similar conditions at the Lind Road property. Exhibits J through N indicate that thousands of cubic feet of wood and other exposed debris dumped at the site. At times, the witnesses observed dust covering nearby homes, but the record does not disclose evidence of any fires or intentional burning (R. 46-58, 73-86, 91-103, 111).

When Mr. Thompson received notice of violations from the Agency in November, 1976, Mr. Thompson testified that he continued to fill in an area approximately 200 feet by 200 feet by 20-30 feet. After warnings from the Will County Health Department, Mr. Thompson promised that deposits at the site would be limited to demolition-type material. However, subsequent investigation disclosed that trash mixed with wood and other debris had been dumped at the site (R. 76, 132-35).

The Board finds that the evidence sufficiently shows that Respondent Mr. Conrad Thompson has operated a solid waste management site without a permit in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Act. Tri-County Excavating and Wrecking, Inc. will be dismissed as Respondent to this action because the record does not show that the site was operated by or in the name of the corporation. The record indicates that since the date of the hearing, Mr. Thompson has hauled clay filling and black dirt to cover the exposed and improperly covered demolition material and other debris at the Lind Road site.

Section 33(c) of the Act requires the Board in making its determinations to consider and evaluate the degree of injury to the public, the social and economic value of the pollution source, the suitability of the pollution source to its location and the technical practicability and economic reasonableness of reducing or eliminating the pollution violation. In this case, the Board finds the following:

1. The character and degree of injury resulting from these violations at the Lind Road landfill is measured in terms of the need for a viable permit system for all solid waste disposal sites to protect the public from injury or interference with health and property. It is well established that the permit system is the cornerstone of the Act and, whenever necessary, the Board must use its penalty provisions as an economic incentive for compliance with the permit requirements. EPA v. Time Chemical, Inc., PCB 75-291, 19 PCB 386, 387 (December 4, 1975); EPA v. Chenoa Stone Co., PCB 75-152, 19 PCB 659, 660 (January 14, 1976); EPA v. Scope Products, Inc., PCB 75-290, 20 PCB 229, 232 (March 11, 1976).

2. The social and economic value of the Lind Road landfill as a receiving site for demolition waste is not questioned here. While the Board recognizes the value of filling in an abandoned sand pit, this does not excuse the

continuous violations of permit regulations which are designed to protect the individuals in the vicinity of the site and the public at large.

3. While the Board cannot review the geological and environmental suitability of the Lind Road site for a sanitary landfill in absence of Agency permit review or other evidence in the record, we find that operation of the site in violation of the permit requirements and at variance with solid waste management practices seriously diminishes the social and economic value of the site.

4. The testimony indicates that compliance with the permit requirements were not only technically practical and economically reasonable, but the record indicates a complete disregard on the part of Respondent in obtaining a permit as a prerequisite for proper solid waste management of the site.

In view of these findings, the Board will assess a penalty of \$2000.00 for the violations of Rule 202(b)(1) and Section 21(e) of the Act against Conrad Thompson. The Respondent shall close the site and place final cover in compliance with Board regulations within 60 days of this Order. Respondent shall cease and desist from further violations.

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

ORDER

1. Respondent, Conrad Thompson, is found to have operated a solid waste management site in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Environmental Protection Act.

2. Respondents, Tri-County Excavating and Wrecking, Inc., Thomas Rowe, Richard E. Wilda and Marie A. Wilda, are hereby dismissed.

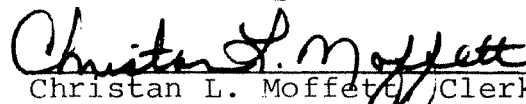
3. Respondent, Conrad Thompson, shall close the present site and place final cover in compliance with Chapter 7: Solid Waste Regulations within sixty (60) days of this Order.

4. Respondent, Conrad Thompson, shall pay a penalty of \$2,000.00 for the aforementioned violations within 35 days of this Order. Payment shall be by certified check or money order payable to:

State of Illinois
Environmental Protection Agency
Fiscal Services Division
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 Opinion and Order were adopted on the 15th day of February, 1979 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board