

ILLINOIS POLLUTION CONTROL BOARD
September 21, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY)
)
Complainant,)
)
v.) PCB 77-273
)
SYDNEY R. KATZ,)
)
Respondent.)

MR. DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

O'MALLEY AND COUNTRYMAN, ATTORNEYS AT LAW (MR. JEFFREY M. KRASNER, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the October 20, 1977 Complaint brought by the Illinois Environmental Protection Agency against Mr. Sydney R. Katz alleging that the Respondent operated a solid waste management site in violation of Rule 202(b)(1) and Rule 305(c) of Chapter 7: Solid Waste Regulations and Section 21 of the Illinois Environmental Protection Act by failing to have an Operating Permit for the site and failing to apply final cover to the property. On March 31, 1978, the parties submitted jointly a Stipulation, Proposed Settlement, and Waiver of Hearing. On April 13, 1978, the Board entered an order finding that a hearing is mandatory in an enforcement action and denying the parties' request that the matter be decided without a hearing. Accordingly, a hearing was held on June 28, 1978, and the Stipulation and Proposal for Settlement was entered into the hearing record as Joint Exhibit A. The transcript of the proceedings was received by the Board on July 18, 1978, and this date shall be considered to be the date that the parties filed their Stipulation and Proposal for Settlement.

The stipulated facts indicate that Mr. Sidney R. Katz owned property located on Route 64 (one mile east of the intersections of Route 64 and Route 23) near the city limits of the City of

Sycamore, DeKalb County, Illinois. A bog or marsh measuring approximately 94 feet by 229 feet is located on this land. From August 21, 1974 until October 20, 1977, the property was used as a solid waste management site accepting dirt, sand and gravel which contained refuse and other construction debris.

The Respondent applied for an Operating Permit for the sanitary landfill in 1976. On May 19, 1976, Mr. Katz received a letter from the Agency indicating that the Permit Application was inadequate and denying it on that basis. During the period between May 8, 1968 and August 17, 1977, the Agency made 20 inspections of the sanitary landfill. On 17 occasions between June 3, 1968 and August 26, 1977, the Agency sent letters to Mr. Katz. Each letter warned the Respondent of the violations of the Operating Permit and Final Cover Rules and encouraged him to contact the Agency for further discussions.

As a result of discussions between the parties, a settlement proposal has been presented to resolve the enforcement proceeding. Basically, this settlement agreement provides that the Respondent (Mr. Sydney R. Katz): (1) admits that the sanitary landfill was operated without an Operating Permit and that final cover was not placed on the site in violation of the Board's Solid Waste Rule 202(b)(1) and Solid Waste Rule 305(c) and Section 21 of the Act on the following dates: May 8, 1968, June 20, 1968, August 3, 1970, November 4, 1971, August 21, 1974, September 27, 1974, October 24, 1974, December 4, 1974, March 20, 1975, August 28, 1975, December 10, 1975, February 19, 1976, March 3, 1976, June 15, 1976, September 16, 1976, October 8, 1976, October 13, 1976, February 23, 1977, April 11, 1977, and August 17, 1977; (2) agrees to cease immediately from adding any more waste material to the site; (3) shall take all reasonable steps necessary to preclude others from dumping waste materials on the property; (4) agrees to remove all the water from the bog by pumping it to the south of the bog in such a way that it will seep into the ground (this pumping shall be done before any fill is added to the bog, but within 45 days, weather permitting, of approval of the proposed settlement by the Board); (5) shall remove all non-earthen materials (such as metals) from the bog and dispose of them in an Agency approved landfill within 45 days, weather permitting, of approval of the proposed settlement by the Board; (6) agrees to place appropriate final cover to the entire area worked within 60 days of approval of the proposed settlement by the Board; (7) agrees to monitor gas, water, and settling at the completed site for a period of 3 years after the site is completed or closed and after final cover has been added; (8) agrees to take whatever remedial action is necessary to abate any gas, water, or

settling problems which appear during the three year period; (9) agrees upon completion or closure of the site to file a detailed description of the site, including a plat, with the DeKalb County Land Recording Agent and the Illinois Environmental Protection Agency; (10) agrees to post a \$9,000.00 performance bond; and (11) pay a stipulated penalty of \$1,150.00 . Moreover, the parties stipulate that the Respondent, Mr. Sydney R. Katz, has not maliciously or wantonly violated the Board's Solid Waste Rules or the Illinois Environmental Protection Act.

At the hearing of June 28, 1978, the Respondent's attorney indicated that after the proposed settlement agreement was entered into, Mr. Katz "proceeded to have the area filled with dirt from the excavation of the County Public Safety Building, and signs have been posted there, on the premises, to prohibit dumping." (R.3).

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 Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds the Respondent, Mr. Sydney R. Katz, in violation of Rule 202(b)(1) and Rule 305(c) of Chapter 7: Solid Waste Regulations and Section 21 of the Illinois Environmental Protection Act. The Board imposes the stipulated penalty of \$1,150.00 .

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 Respondent, Mr. Sydney R. Katz, has violated Rule 202(b)(1) and Rule 305(c) of Chapter 7: Solid Waste Rules and Regulations and Section 21 of the Illinois Environmental Protection Act.

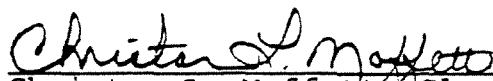
2. Within 45 days of the date of this Order, the Respondent, Mr. Sydney R. Katz, shall pay the stipulated penalty of \$1,150.00 , payment to be made by certified check or money order to:

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

3. The Respondent, Mr. Sydney R. Katz, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed July 18, 1978, which is incorporated by reference as if fully set forth herein.

Mr. Goodman abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 21st day of September, 1978 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board