

ILLINOIS POLLUTION CONTROL BOARD
April 14, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 76-173
)
JERSEY SANITATION CORPORATION,)
an Illinois corporation, and)
RALPH JOHNSON, an individual,)
)
 Respondents.)

Mr. George W. Tinkham, Assistant Attorney General, appeared for the Complainant;
Mr. Robert M. Egan appeared for the Respondents at the first hearing. Mr. Johnson appeared pro se after the first hearing.

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

This matter comes before the Board upon a complaint filed June 17, 1976 by the Environmental Protection Agency (Agency). An amended complaint was filed July 22, 1976. This amended complaint lists six counts of alleged violations concerning a refuse disposal site operated by Respondents and located on property owned by Ralph Johnson in the Northwest 1/4 of Section 6, Township 7 North, Range 11 West of the Third Principal Meridian, in Jersey County, Illinois. The allegations cover a time span from April 8, 1975 to the filing of the amended complaint July 22, 1976 and include alleged violations of Rule 305(a) of the Board's Solid Waste Regulations (Regulations) and Sections 21(a) and 21(b) of the Environmental Protection Act (Act); Rule 303(b) of the Regulations; Rule 308 of the Regulations; Rule 314(f) of the Regulations; Rule 304; and Rule 302.

A hearing was held in Jerseyville, Illinois on December 3, 1976. At a second hearing on December 21, 1976 a stipulation was presented for the Board's approval. Respondent Ralph Johnson who was represented by counsel at the first hearing appeared pro se at the second hearing and at the signing of the stipulation.

After the stipulated agreement was submitted to the Board, Mr. Johnson filed a motion to ask the Board to consider additional facts. The Agency filed a response asking any ex parte communications be stricken from the record. The Board in this matter finds itself confronted with accepting the stipulated agreement or sending the matter back for further hearing concerning the additional facts. Respondent has not asked that the stipulation be rejected. The facts Respondent refers to cannot be considered in their present form as complainant has had no opportunity for cross-examination or rebuttal statements. The Board finds that Respondents' motion is inappropriate and cannot be considered as part of the record.

The stipulated agreement as presented to the Board is set out as follows. Respondent, Ralph Johnson, owns the property as described in the complaint. It was further stipulated that:

- a. Respondents failed to place a compacted layer of at least six inches of suitable material on all refuse at the end of each day of operation on April 8, 1975, July 15, 1975, August 21, 1975, September 24, 1975, October 22, 1975, December 11, 1975, January 9, 1976, January 21, 1976, February 25, 1976, May 27, 1976, May 28, 1976, June 4, 1976, June 25, 1976, and July 1, 1976.
- b. Respondents failed to spread and compact all refuse in layers not exceeding a depth of two feet as rapidly as it was deposited at the landfill on April 8, 1975, July 15, 1975, August 21, 1975, September 24, 1975, December 11, 1975, January 9, 1976, January 21, 1976, February 25, 1976, May 27, 1976, and May 28, 1976.
- c. Respondents caused or allowed scavenging operations at the landfill on July 9, 1976.
- d. Respondents failed to provide adequate measures to control vectors on July 9, 1976 and June 2, 1976.
- e. Respondents failed to provide sufficient equipment, personnel, and supervision at the landfill to ensure that operations would comply with the operating permit and the Act and Regulations on January 9, 1976, May 28, 1976, and June 25, 1976.

- f. On June 25, 1976 Respondents failed to work and seed the cover of cell #1; to stockpile topsoil for use as "finish cover"; to cause an employee to be present at all times when the fill is open to the public; to place at the fill signs designating the unloading area; to construct temporary fences around the dumping area; to provide a rodent control service when rodents appeared; and to keep any of Respondents' personnel from scavenging or salvaging materials at the landfill, as had been required by Respondents' permit number 73-44-OP issued by Complainant, Environmental Protection Agency.

On the date of filing the stipulation the condition of the site as described in the stipulation could be described at best as partial compliance. Cover has been provided although not to an adequate depth in all places. The leachate collection system is not as developed as the permit required. An additional monitoring well is needed. There is portable fencing and litter control at the site. Access to the site is not adequately controlled. There are rats at the site. Dumping has been limited to a specific area and an operator is present with equipment and the required accommodations are provided. The suitability of the site is not in issue. Respondents do have a permit for the development and operation of the site.

The stipulation provides that the site, if not operated properly, could adversely affect the environment by providing a feeding and breeding ground for vectors (including rats and flies), causing objectionable odors, being a source of blowing litter and debris, and by threatening the pollution of surface waters. The potential environmental detriments will be alleviated by Respondents following the stipulated compliance schedule and by complying with their development and operating permits. The parties agreed that the compliance schedule was a technologically practicable and economically reasonable means by which Respondents' landfill may be brought into compliance. A detailed thirteen point plan provides for placement and maintenance of proper cover; extermination of rats within 30 days of the filing of the stipulation; replacement and repair of fencing; leachate collection; monitoring of ground water; and an operator on duty with sufficient operational equipment at all times. Monthly progress reports are to be submitted to the Agency until July 31, 1977.

The parties agreed the facility was of significant social and economic value to the community but lack of compliance with the regulations constitutes potential to injure or interfere with the property or general welfare of the people. The parties also stipulated to a penalty of \$3,500.

The Board finds the stipulated agreement to be acceptable under Procedural Rule 333. From the testimony presented at the hearing on December 3, 1976 it is apparent that the operation of the landfill was of considerable injury and irritation to neighboring residents. The Board finds Respondents in violation of all allegations as set out in the complaint with the exception of Section 21(a) of the Act. There is no evidence in the stipulation as to the open dumping of garbage. The Section 21(a) allegation is dismissed. The Board finds the penalty of \$3,500 adequate to aid enforcement of 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 Pollution Control Board that:

1. Jersey Sanitation Corporation and Ralph Johnson are found to be in violation of Rule 305(a) of the Board's Solid Waste Regulations and Section 21(b) of the Environmental Protection Act; and Rules 302, 303(b), 304, 308, and 314 (f) of the Regulations. The allegation of violation of Section 21(a) of the Act is dismissed.
2. Respondents shall follow the compliance plan as set out in the stipulation.
3. Respondents shall pay a penalty of \$3,500 within 35 days of this order. Payment shall be made by certified check or money order payable to:

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

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of April, 1977 by a vote of 5-0.



Christian L. Moffett, Clerk
Illinois Pollution Control Board