

ILLINOIS POLLUTION CONTROL BOARD
June 18, 1976

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-7
)
 BEVERLY BANK, a/t/u Trust No. 8-1696,)
)
 Respondent.)

Mr. James L. Dobrovolsky, Assistant Attorney General, appeared on behalf of the Complainant;
Mr. Sheldon Belofsky, Attorney, appeared on behalf of the Respondent.

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

The original Complaint in this matter was filed on Jan. 7, 1976, alleging that Chicago Bulk Equipment, Inc., and the Worth Bank & Trust Company, as trustee under Trust No. 1115, had violated Sections 21(b) and 21(e) of the Environmental Protection Act (Act) and Rules 202(b) and 305(c) of Chapter 7: Solid Waste, of the Board's Rules and Regulations. Ill. Rev. Stat., Ch. 111-1/2, §§ 1021(b), 1021(e) (1975; Ill. PCB Regs., Ch. 7, Rules 202(b), 305(c) (1973). The People's Motion for Leave to File an Amended Complaint, dismissing both Chicago Bulk Equipment and the Worth Bank, was filed on Feb. 13, 1976, and allowed in an Interim Order entered by the Board on Feb. 26, 1976; that Amended Complaint named the Beverly Bank, a/t/u Trust No. 8-1696, as Respondent.

At a hearing held in Chicago on April 13, 1976, the attorney for Respondent Beverly Bank and the beneficiaries of Trust No. 8-1696 admitted to "technical" violation of the permit and cover requirements for solid waste disposal sites, as alleged in the Complaint, (R. 7, 40), but refused to stipulate to the imposition of a penalty. Respondent admits both that the material in question was deposited without the permit required under § 21(e) and Rule 202(b), and that it was not properly covered, as required under Rule 305(c) and § 21(b).

Respondent noted that there was no showing that it even knew of the dumping on its property. Once notified of the problem, Respondent caused the previously dumped materials to be properly covered, and "no dumping" and "no trespassing" signs to be posted, (e.g., R. 37). Respondent also pointed out that the record does not show evidence of environmental damage.

In aggravation, the People merely showed that the site in question, located in Lansing, Illinois, did not previously have fences or "no dumping" signs, and that considerable quantities of refuse and garbage had been dumped -- by the truckload -- at the site, (Ex. B-H). The Attorney General merely stated that \$250 would serve as a minimal penalty useful as a warning to others, (R. 39).

We determine that no penalty would be appropriate here. In reaching this decision, we are moved by three factors:

- (1) The site in question is now in full compliance with all applicable requirements under the Act and our Rules;
- (2) The lack of indication of environmental damage resulting from the admitted violations;
- (3) Respondent achieved that compliance immediately after being notified of the instant problem, in an apparent show of good faith.

We shall instead order Respondent to cease and desist all violation of the applicable Regulations. This should be sufficient to assure compliance with the Act and our Regulations in the future.


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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that:

1. Respondent Beverly Bank, as trustee under Trust No. 8-1696, is found to have allowed violations of the applicable permit and final cover requirements at a solid waste management site in Lansing, Illinois, in violation of Sections 21(b) and 21(e) of the Environmental Protection Act and Rules 202(b) and 305(c) of Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations.
2. Respondent shall cease and desist such violations.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18th day of June, 1976, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board