

ILLINOIS POLLUTION CONTROL BOARD

July 10, 1975

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
v.) PCB 75-1
ADOLPH DUNN AND JOE CISEL,)
Respondents.)

MS. MARILYN B. RESCH, attorney for Complainant.
MR. J. MICHAEL MATHIS, attorney for Respondents.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On January 2, 1975, the Illinois Environmental Protection Agency (Agency) filed a Complaint against the Respondents with the Illinois Pollution Control Board (Board). Complainant alleged that the Respondents operated a solid waste management site without an Agency Operating Permit from July 27, 1974, until January 2, 1975, in violation of Rule 202(b)(1) of the Solid Waste Regulations (Chapter 7) and Section 21(e) of the Illinois Environmental Protection Act (Act). Mr. Dunn owns the four-acre site located in the NW 1/4 of the SE 1/4 of Section 8, Township 9 North, Range 5 East in Peoria County, Illinois. Mr. Cisel operates the landfill and also owns the Cisel Refuse Collection Service (Collection Service), the only enterprise hauling to the site (R. 8).

A hearing was held in the Peoria County Courthouse in Peoria, Illinois on February 21, 1975. Comp. Ex. 1 established the allegations set out in the Complaint. At the hearing the parties stipulated to the following additional facts (R. 6):

1. On three dates, August 31, 1973, and May 15 and November 12, 1974, the Respondents were sent letters by the Agency notifying them of the requirements of an Operating Permit.

2. On September 11, 1973, Mr. Dunn inquired about an operating permit, and on September 19, 1973, the Agency mailed to Mr. Dunn three copies of the operating permit application.

Respondents called one witness, Mrs. Carol Cisel, wife of Joe Cisel and daughter of Adolph Dunn. She does the bookkeeping and clerical work for the landfill and the Collection Service. The Collection Service hauls from the communities of Elmwood, Brimfield, Yates City, and Laura in western Peoria County and eastern Knox and Fulton Counties (R. 9). The Collection Service pays Mr. Dunn a small sum for dumping on the land (R. 16). Four hundred residential and retail customers are served by Respondents (R. 8). Except in Brimfield, the Collection Service provides

virtually all the trash and garbage collection for the communities. Approximately one load a day is dumped at the site which is open about 20 hours per week (R. 8, 9). The Collection Service owns \$17,000 worth of collection and disposal equipment including a garbage truck, a hauler and compactor, a dump truck, and one D-6 bulldozer (R. 10). During 1974 the Cisel family made \$6,000 from operating the business (R. 11). Mr. Cisel does not work at the site, but is employed full-time at Caterpillar (R. 10).

When Respondents were made aware of their need for a permit, they believed that a renewal of their 1965 permit from the Water Control Board was all that was required. Efforts to comply were delayed, because Mr. Dunn's attorney would only correspond with Mr. Dunn who is retired and often out-of-town (R. 21). It is estimated that a permit application will cost at least \$3,000 due to the engineering studies (R. 12) needed for application. A preliminary study is now being undertaken at a cost of \$500 to determine whether the site has a useful life of sufficient length to justify the expense of compliance (R. 13). When the site was purchased in 1965, its life expectancy was ten to eleven years (R. 20).

If the site were closed, hauling to a commercial facility would mean additional expense for customers (R. 14). At the present time the operation is considered marginal. Although the Cisels are now making a reasonable return on their investment, if expenses went up and income went down, the site would no longer be worth operating (R. 15).

On April 28, 1975, the Board received a "Petition For Leave To File Additional Evidence" which stated in part that:

1. "Respondents have been advised that a joint City of Peoria-County of Peoria solid waste disposal site will be opened on or before approximately November 1, 1975.

2. "The report prepared for Respondents has determined that the approximate useful site life of the present solid waste management site is eighteen months and will terminate approximately between February and June of 1976 and that final cover would have to be started in the early spring of 1976 and that the engineering and other services required to prepare and file an Application for an Operating Permit would require an expenditure by Respondents of approximately \$5,000.00 to \$8,000.00 and that it is not economically feasible to amortize such an expenditure over the useful site life.

3. "No substantive violations of the Act have been charged in the Complaint by the Environmental Protection Agency and the owners have and will continue to provide adequate daily and intermediate cover and will commence the final cover operation on November 1, 1975, if the Board sees fit to grant a Temporary Operating Permit.

4. "The owner will voluntarily and permanently close the current site as soon as the joint City-County landfill site is opened or no later than November 1, 1975 whichever comes first.

5. "The present service offered by Respondents is vital to the health, welfare, and sanitation of the Elmwood, Yates City, and Brimfield area and the economics of the present operation preclude transportation and disposal elsewhere. The loss of refuse collection service to these communities will work a direct and visible hardship and will, in all likelihood, result in the dispersal and disposal of trash around the countryside and in illegal dumps."

The Agency responded to the Respondents' Petition and stated that "the Board must order compliance with the law or immediate closure."

We find that Respondents have violated Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act from July 27, 1974, until January 2, 1975, as charged in the Complaint. The permit requirements are an important part of our environmental program. While Respondents' actions do not show bad faith, their conduct evidences insufficient concern for the Act and regulations. Although the landfill has social value when properly operated, failure to comply with the law decreases its worth. While the cost of compliance may be substantial, the requirement exists because the permit system provides important environmental safeguards. The expense involved is part of the cost of doing business.

This constitutes the findings of fact and conclusions of law of the Board.

ORDER

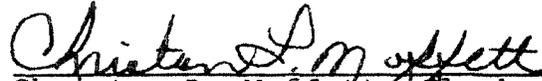
IT IS THE ORDER of the Pollution Control Board that:

1. Respondents violated Section 21(e) of the Act and Rule 202(b)(1) of Chapter 7 as set out in our Opinion.

2. Respondents, jointly and severally liable, shall pay a penalty of \$150.00 for their violations of the Act and regulations established in this Opinion. Payment shall be by certified check or money order payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 35 days of the adoption of this Order.

3. Respondents shall cease and desist operating their solid waste management site by November 1, 1975, or as soon as the joint Peoria City-County landfill site is opened, whichever comes first, unless Respondents obtain a valid operating permit from the Agency before said date. If the site is closed by November 1 or earlier in 1975, final cover shall be in place by March 31, 1976.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of July, 1975, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board