

ILLINOIS POLLUTION CONTROL BOARD  
September 13, 1973

ENVIRONMENTAL PROTECTION AGENCY )  
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 )  
 v. ) PCB 73-84  
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 L.R. JOHNSON and SON )  
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MR. SAMUEL MORGAN and HARVEY M. SHELDON, Assistant Attorney  
Generals, for the Environmental Protection Agency  
MR. JOHN W. GOSSELIN of MESSRS. BENSON, MAIR & GOSSELIN, for  
L.R. Johnson and Son.

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

The Environmental Protection Agency filed a complaint against L.R. Johnson and Son asserting that the Respondent owned certain facilities where he violated various sections of the Environmental Protection Act (Act) and Rules and Regulations for Refuse Disposal Sites and Facilities (Land Rules) promulgated by the Department of Public Health in April of 1966 and remaining in force and effect pursuant to Section 49(c) of the Act.

Mr. Johnson owned land located in Batavia, Illinois where he had conducted landfill operations. After contact by the State Department of Public Health regarding the necessity of obtaining a permit to conduct such landfill operations, Respondent ceased such operations except for the occasional disposal of loads of solid refuse such as concrete waste or clay. Respondent contends that all other refuse was placed on his land without his knowledge or approval.

The Agency and Mr. Johnson have filed a Stipulation that Mr. Johnson has violated the prohibition of open dumping found at Section 21(b) of the Act and Rule 3.04 of the Land Rules, violated Section 21(a) of the Act by not obtaining a permit, failed to properly spread and compact refuse deposited on his land in violation of Rule 5.06 of the Land Rules, and failed to provide daily cover and final cover in violation of Rules 5.07(a) and 5.07(b) of the Land Rules. This Stipulation is found on pages 2

through 4 in the hearing record (PCB 73-84, April 25, 1973).

Based upon the Stipulation filed by the parties and the record taken as a whole, the Board finds the Respondent in violation by having caused or allowed the open dumping of refuse upon his property, failure to obtain a permit for the operation of a landfill, failure to properly spread and compact refuse, failure to provide daily cover, and failure to provide final cover.

People owe a trust to ensure that land they own or control is not abused by open dumping of refuse in an improper and illegal manner. Although respondent has stated that he did not cause the dumping, he owns the land and is responsible for the refuse. In respect of the Respondent's cooperation and his efforts to correct the violations by leveling and applying a final cover, the Board assesses a modest \$100 penalty.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

Respondent, L.R. Johnson and Son shall:

1. Cease and desist from causing or allowing any open dumping of refuse upon the site in question.
2. Cease and desist from violations of the Environmental Protection Act and the Rules and Regulations for Refuse Sites and Facilities.
3. Obtain a permit from the Illinois Environmental Protection Agency before commencing any future landfilling operations.
4. Pay to the State of Illinois, within 35 days after receipt of this Order, the sum of \$100.00 as a penalty for violation of provisions found in the Board's opinion. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13<sup>th</sup> day of September, 1973 by a vote of 4-0

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board