

ILLINOIS POLLUTION CONTROL BOARD
August 23, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 73-75
)
 FOSCHI DISPOSAL SERVICE, INC.)
 and)
 FOSCHI BROTHERS, INC.,)
)
 Respondents.)

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

On February 23, 1973, the Agency filed Complaint against Respondents, Foschi Disposal Service, Inc. and Foschi Brothers, Inc., which own and operate a refuse disposal site located in Joliet, County of Will, Illinois. The Complaint charges the following violations:

1. violation of Section 21, subparagraph (e) of the Environmental Protection Act by failure to have a permit for the operation of the refuse disposal site;
2. violation of Section 21(b) of the Act and Rule 3.04 of the Rules and Regulations for Refuse Disposal Sites and Facilities of the Division of Sanitary Engineers of the Department of Public Health of the State of Illinois by causing or allowing open dumping of refuse;
3. violation of Rule 4.03, subparagraph (a) and Section 21, subparagraph (b) by failing to have adequate fencing to control access to the site;
4. violation of Rule 5.03 and Section 21, subparagraph (b) of the Act by failing to confine the dumping of refuse to the smallest practical area;
5. violation of Rule 5.05 and Section 21, subparagraph (b) of the Act by failure to provide sufficient equipment in operational condition to permit the operation of a landfill according to any approved plan;

6. violation of Rule 5.06 and Section 1, subparagraph (b) of the Act by failing to properly spread refuse admitted to the site;
7. violation of Rule 5.07, subparagraph (a) and 21(b) of the Act by failing to provide adequate daily cover.

This cause has come before the Board with a Stipulation And Proposal For Settlement entered into between the respective parties. By said Stipulation, Respondents admit to the operation of their refuse disposal site without first having obtained a permit (paragraph 3). Respondents are not in the business of refuse pick-up and disposal; the items that were dumped were all materials that were destroyed in the wrecking of buildings in the course of Respondents' wrecking business (R. 5).

As a result of the discovery undertaken by the parties, and pre-hearing conferences, each party believes that the public interest will be best served by the resolution of the action under the terms and conditions set forth in the Proposal For Settlement.

Respondents have agreed that the numerous photographs submitted by the Agency truly and accurately depict the condition of Respondents' refuse disposal site on the dates indicated thereon. These photographs illustrate the violative nature of Respondents' operation.

Respondents have prepared a program whereby it will immediately cease and desist from any use of its site for the dumping of refuse and, further, will cover the site to a minimum depth of two feet by October 1, 1973.

Respondents' Exhibit A, three arial photographs of the site taken July 16, 1973, show that Respondents are quite near compliance. This Board is, therefore, disposed to approve the terms of the Stipulation And Proposal For Settlement submitted by the parties.

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

IT IS THE ORDER of the Pollution Control Board that Respondents shall:

1. Cease and desist from violation of the Rules and Regulations for Refuse Disposal Sites and Facilities and applicable sections of the Illinois Environmental Protection Act.
2. Completely cover their refuse disposal site to a minimum depth of two feet, and shall in addition return such site to its natural condition on or before October 1, 1973.

3. Pay to the State of Illinois the sum of \$1,000 within 35 days from the date of this Order. 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 Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 23rd day of August, 1973, by a vote of 3 to 0.

Christan L. Moffett

