

ILLINOIS POLLUTION CONTROL BOARD
May 31, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 72-65
)
 EARL B. ARCHDALE,)
)
 Respondent.)

Richard M. Baner, Special Assistant Attorney General, on
behalf of Complainant;
Kenneth Bath on behalf of Respondent.

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

On February 22, 1972, the Environmental Protection Agency filed a complaint against Respondent, Earl B. Archdale, charging numerous specific instances of open burning, open dumping, failure to provide vector control and failure to spread and compact refuse, all allegedly in violation of the Environmental Protection Act and the Rules and Regulations adopted pursuant thereto. Respondent is the owner and operator of a refuse disposal facility and site located in Waterford Township of Fulton County, Illinois.

On August 29, 1972, this Board entered an Interim Opinion and Order. The confused state of the proceeding on that date is illustrated by the following excerpt (P. 2):

"Because of the obvious desire of the parties to close this matter without further hearing, we did attempt to make our findings of fact and law from the materials which were presented to us. We find, however, that the combination of the nonsensical pleadings and the reliance upon them as a basis for the Stipulation of Facts frustrates our purpose. Any determination of facts from this record would constitute the Board's own Stipulation of Facts. We see no alternative but to return the case to the Hearing Officer for further proceedings."

The Agency's Amended Complaint, filed on February 15, 1973, charges Respondent with violation of the following:

Section 9(c), Section 21(b) and Section 12(a) of the Illinois Environmental Protection Act;

Rule 3.04, Rule 3.05, Rule 5.06, Rule 5.07, Rule 5.09, Rule 5.12 and Rule 5.12(c) of the Rules and Regulations for Refuse Disposal Sites and Facilities effective pursuant to Section 49(c) of the Act.

A hearing was held on March 20, 1973. At that hearing, Respondent testified that his facility had been closed since September of 1972 (R. 34). Respondent further testified that the requisite two feet of compacted cover had not then been totally completed (R. 49).

The evidence produced at the hearing proved numerous violations of the Act and Rules. There was evidence of a fire which lasted for over a week (R. 46, 179), a dense fly population (R. 74), lack of daily cover and compacting activity (R. 84, 92) and open dumping (R. 157).

The Respondent is a man of modest means, engaged primarily as a factory worker. He has testified to his desire to cease all operation of the facility. This Board is, therefore, disposed to order the facility closed and to assess a small penalty.

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

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent shall pay to the State of Illinois the sum of \$100 within thirty days of 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.
2. Respondent shall provide final cover to the top and face of the disposal site pursuant to the requirements of Rule 5.07(b) on or before July 15, 1972;
3. The site referred to in the Complaint shall be and is ordered closed as a refuse disposal site;
4. Further operation of this site as a refuse disposal site shall be only after full compliance by the Respondent with the statutory requirements for beginning and continuance of such operations.

5. Respondent shall cease and desist from all violations of the Act and Regulations at the location in question.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 31st day of May, 1973, by a vote of 4 to 0.

Christan L. Moffett