

ILLINOIS POLLUTION CONTROL BOARD

March 15, 1973

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 vs. ) PCB 72-498  
 )  
 R. H. BOUDET, Respondent. )

Dale Turner, Assistant Attorney General for the EPA  
R. H. Boudet, Pro Se

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

Respondent is prosecuted for the open dumping of refuse along a township road near the Jackson County Landfill on Saturday afternoon March 18, 1972. The area where the dumping occurred was at one time used by the public for promiscuous dumping to such an extent that piles of trash littered the roadside for about 1/2 mile. The promiscuous dump site was under surveillance by an EPA investigator and the environmental officer of Consolidated Coal Company, owner of nearby land, at the time Respondent appeared on the scene. Respondent first drove his pickup truck to the County Landfill but discovered that the gate was closed and locked. He then drove about 200 yards to an area where a quantity of trash littered the roadside and proceeded to shovel some of the refuse from his pickup truck. The refuse consisted of cans, bottles, a furnace filter and a plastic garbage can. Respondent shoveled about 1/4 of his load onto the roadside area before he was interrupted by the EPA investigator.

Mr. Boudet asked if he should pick up the refuse which he had abandoned but then left without doing so. He states that the EPA investigator told him it would make no difference if he picked it up. Both prosecution witnesses testified that Respondent was advised to pick up the refuse. Respondent testified that he did, in fact, go back to the area and collect his refuse, or as much of it as he could identify, after being contacted by the County Health Department regarding the matter.

Photographs taken by the prosecution witnesses show Respondent standing in the rear of his pickup truck, shovel in hand, surrounded by refuse in the truck and on the ground.

Respondent testified that after he discovered the County Landfill was locked, he observed this area, thought it was a dump and decided to use it for that purpose.

Mrs. Boudet in her testimony, observed that Respondent "just got caught doing something thousands of people are doing", (R. 47) and that Respondent had been trapped into the situation when he discovered the County Landfill was closed.

The evidence clearly proves Respondent guilty of the open dumping of refuse at an unapproved site. It is obvious from the testimony that other people were also guilty of the same conduct. However, violations are not excused by reason of the fact that others also are violating the law. For a single violation of this type we believe a monetary penalty in the amount of \$50.00 is appropriate. Evidence of repeated violations would justify a higher penalty.

ORDER

It is ordered that:

1. Respondent cease and desist from the violations found in this Opinion.
2. Respondent shall pay to the State of Illinois by April 20, 1973 the sum of \$50 as a penalty for the violation found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 15<sup>th</sup> day of March, 1973 by a vote of 4 to 0.





