

ILLINOIS POLLUTION CONTROL BOARD
May 3, 1973

ENVIRONMENTAL PROTECTION AGENCY)
)
) #72-496
 v.)
)
 CITY OF ASHLEY)

PETER M. DOMINGUEZ, ASST. ATTORNEY GENERAL, ON BEHALF OF
ENVIRONMENTAL PROTECTION AGENCY
LLOYD A. KARMEIER OF HOHLT, HOUSE, DEMOSS & JOHNSON, ON BEHALF
OF RESPONDENT

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Complaint was filed against Respondent, City of Ashley, alleging that the City, in the operation of its refuse disposal site, caused or allowed the open dumping of garbage, in violation of Section 21(a) of the Environmental Protection Act on October 17, 1972; caused or allowed the open dumping of refuse in violation of Section 21(b) of the Act and Rule 3.04 of the Rules and Regulations for Refuse Disposal Sites and Facilities on 21 specified dates in 1970, 1971 and 1972; caused or allowed open burning of refuse in violation of Section 9(c) of the Act and Rule 3.05 and Rule 5.12 of the Rules on 7 specified dates in 1971 and between June 27, 1972 and October 17, 1972; failed to comply with Rule 4.03 with respect to posting on 11 specified dates in 1971 and 1972; failed to comply with Rule 5.04 with respect to blowing of litter on April 28, 1971; violated Rule 5.05 with respect to availability of equipment to operate a landfill site on 24 specified dates in 1970, 1971 and 1972; violated Rule 5.06 with respect to spreading and compacting of refuse on 24 specified dates in 1970, 1971 and 1972; violated Rule 5.07(a) with respect to providing daily cover on 25 specified dates in 1970, 1971 and 1972; violated Rule 5.09 with respect to vector control in 1970, 1971 and 1972; and violated Rule 5.12(c) with respect to the deposition of refuse in standing water on December 6, 1971 and September 14, 1972.

The complaint also alleges that since July 1, 1970, Respondent has violated Section 21(e) of the Act, prohibiting the conduct of refuse disposal operations without an Agency permit. Complaint seeks the entry of a cease and desist order, the requirement of obtaining a permit or the closing of the facility if the permit is not issued, and fines in the maximum statutory amount.

Stipulation was entered into between the parties in which all of the allegations are admitted except those relating to violations of

Rule 4.03 with respect to the posting of the site and Section 9(c) of the Act and Rules 3.05 and 5.12 with respect to open burning of refuse. The stipulation also recites that the facility owned and operated by the City occupies approximately 11 acres one mile south of the City and that the adjacent area is used primarily for farming. No equipment was located on the premises on a permanent basis. A tractor was used approximately four times a year to cover and dig trenches. At all times mentioned in the complaint, the City accepted on a weekly basis, approximately one ton of demolition, putrescible and combustible refuse which material occupied between one and two acres. A trench approximately 100 feet long, 10 feet wide and 6 feet deep was used for the deposit. Residents of the surrounding area deposited refuse in the trench which was not covered until completely filled, at which time a new trench would be dug and the dirt from it used to cover the old trench. Refuse frequently remained uncovered for periods of from six to eight weeks. Photographs taken by complainant, identified as EPA Group Exhibit 10, depict the condition of the site. These pictures were taken on May 27, 1971, August 16, 1971 and January 27, 1972, reflecting the unsightly accumulation of trash, cans, metal parts, barrels, metal stripping, boxes, paper, waste lumber, sacks and demolition material.

The stipulation agrees to the entry of a cease and desist order from any further violation of the Environmental Protection Act. A hearing was held in the matter on January 30, 1973, at which time the stipulation was tendered and other evidence taken and exhibits submitted, which would also appear to support the allegations of open burning, particularly on August 16, 1971 and August 19, 1971 (EPA Group Exhibit No. 8). The evidence indicates that the dump was closed on January 27, 1973, although the record is not clear as to whether the necessary steps have been taken to bring the facility into compliance with the relevant regulations. Accordingly, it will be our order that the Respondent take all necessary steps to bring the landfill site subject to this proceeding, into compliance with the relevant Regulations and to cease and desist any further violations of the applicable Rules and statutory provisions with respect to refuse disposal sites and facilities. A penalty in the amount of \$500 is imposed for the aforesaid violations.

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

IT IS THE ORDER of the Pollution Control Board:

1. Within 30 days from the date hereof, Respondent, City of Ashley, shall take all necessary steps to bring its operation into compliance with the Rules and Regulations regarding the operation of Refuse Disposal Sites and Facilities, and specifically, to cover and compact the exposed areas in accordance with the provision of said Regulations.

2. Respondent shall cease and desist all violations of the relevant Regulations and statutory provisions with respect to the operation of Refuse Disposal Sites and Facilities.
3. Penalty in the amount of \$500.00 is assessed against the City of Ashley for violations of Sections 9(c) and 21(a), (b) and (e) of the Environmental Protection Act and Rules 3.04, 3.05, 5.04, 5.05, 5.06, 5.07(a), 5.09 and 5.12 as found herein. 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 Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on the 3RD day of May, 1973, by a vote of 4 to 0.

Christan S. Moffett

