

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 72-80
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 CITY OF HARRISBURG and MILO LAMBERT)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is an enforcement action involving numerous alleged violations pertaining to the operation of the City's landfill. The landfill consists of around 23 acres and is located near Harrisburg in Saline County, Illinois. Since March of 1970, the site has been operated by Milo Lambert but is still owned by the City. The materials that have been dumped at the site include domestic garbage, trees, paper, lumber, brush, tires and appliances. The site has now been filled and is in the process of receiving a final cover.

According to the testimony of Agency personnel there was open dumping of refuse on the site on the following dates:

January 3, 1967	September 30, 1969	November 4, 1971
May 6, 1968	October 17, 1969	December 7, 1971
September 23, 1968	November 7, 1969	January 17, 1972
June 6, 1969	March 19, 1970	January 18, 1972
June 23, 1969	September 23, 1971	January 19, 1972
July 9, 1969	September 27, 1971	January 31, 1972
September 17, 1969	November 3, 1971	February 1, 1972

We find that said open dumping was done in violation of Rule 3.04 of the Rules and Regulations for Refuse Disposal Sites and Facilities and, as to the dates after July 1, 1970, in violation of Section 21(b) of the Environmental Protection Act.

According to the testimony of Agency personnel there was open burning of refuse on the following dates:

January 3, 1967	July 9, 1969	September 30, 1969
May 6, 1968	July 28, 1969	October 17, 1969
September 23, 1968	September 9, 1979	November 7, 1969
June 23, 1969	September 17, 1969	November 25, 1971

It appears that the burning was primarily of trees and brush. Inasmuch as it was the policy of the old Air Pollution Control Board, prior to July 1, 1970, not to enforce the open burning restrictions under circumstances such as these, we will not find violations as to any of the proven dates except November 25, 1971. On that day the Agency inspector observed, from about a mile from the site, that smoke was coming from the site and hanging over the highway. Upon approaching the site he observed that no one was present but that a large area of the dump was on fire. He testified that the general refuse, garbage, paper, wood and rubber were burning and that there were open flames and a lot of black and white smoke. We find that open burning did occur on November 25, 1971, in violation of Rule 3.05 of the Rules.

According to the testimony of Agency personnel there was inadequate daily cover on numerous specified dates. However, we will only find violations either on dates where the observation was made at the end of the day or on dates where there was no equipment at the site with which to apply any cover at all or on dates where exposed refuse from prior inspections was recognized. The dates upon which we find inadequate daily cover in violation of Rule 5.07(a) of the rules are as follows:

January 3, 1967	October 17, 1969	August 25, 1971
May 6, 1968	January 8, 1970	November 3, 1971
September 23, 1968	March 19, 1970	January 17, 1972
June 6, 1969	September 29, 1970	January 18, 1972
June 23, 1969	September 30, 1970	January 19, 1972
July 9, 1969	August 13, 1971	January 31, 1972
July 28, 1969	August 24, 1971	

According to testimony of Agency personnel and also upon the admission of Milo Lambert there were no shelter sanitary facilities on the following dates:

January 3, 1967	September 30, 1969	July 9, 1970
May 6, 1968	October 17, 1969	July 15, 1970
September 23, 1968	November 7, 1969	July 28, 1970
June 6, 1969	December 1, 1969	August 24, 1970
June 23, 1969	January 8, 1970	August 26, 1970
July 9, 1969	February 6, 1970	September 29, 1970
July 28, 1969	March 19, 1970	September 30, 1970
August 20, 1969	June 3, 1970	November 13, 1970
September 9, 1969	June 17, 1970	December 10, 1970
September 17, 1969	June 23, 1970	December 20, 1970

We find that said failure to provide shelter sanitary facilities was in violation of Rule 4.03(c) of the Rules.

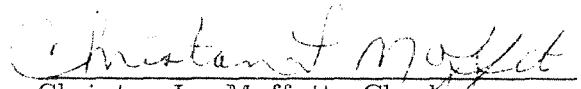
The main problem we are faced with in this case is one of penalties. Ordinarily a case with this many separate violations would receive a substantial penalty. However, the record indicates that neither the City nor Mr. Lambert has any funds to speak of. The City appears to be in poor financial condition and therefore a large penalty would serve no useful purpose. Furthermore, the violations go back almost five years and we feel that this type of action could have been brought before this time, thus solving the problem earlier. Under the circumstances we will assess a penalty of \$500 for the City and \$250 for Mr. Lambert. We also expect that the final cover will be completed as soon as possible but no later than January 1, 1973.

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

ORDER

1. Respondents shall cease and desist from all violations found in this opinion.
2. Final cover shall be completed as soon as possible but no later than January 1, 1973.
3. The City of Harrisburg shall pay to the State of Illinois by January 1, 1973 the sum of \$500 as a penalty for the violations found in these proceedings. 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.
4. Milo Lambert shall pay to the State of Illinois by January 1, 1973 the sum of \$250 as a penalty for the violations found in these proceedings. 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 21st day of
November, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board