

ILLINOIS POLLUTION CONTROL BOARD

January 16, 1973

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 72-312
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 HOWARD JAMES)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is an enforcement case alleging that the respondent in the operation of a 60-acre landfill near Raleigh, Illinois (Saline County) has violated numerous sections of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities on certain specified dates.

Hearing was held on November 11, 1972 at which time the respondent did not appear nor did anyone appear in his behalf. On October 18, 1972 1972, the respondent was notified of the time and place of the hearing by letter from the hearing officer. On November 9, the respondent was notified by letter that the location of the hearing was changed from the original location to a new one located only a half block from the first. On the morning of the hearing the hearing officer posted a notice on each door of the original location stating the new location.

It was alleged that the site was being operated without an Agency permit. At the hearing this charge was dropped because there had in fact been a permit since November, 1969.

It was alleged that the respondent caused or allowed open dumping of garbage and refuse in violation of Section 21 of the Act and Rule 3.04 of the Rules. The inspectors testified that they observed items at the site such as metals, wire, tires, desks, refrigerators, stoves, bicycles, hot water tanks, paper, bottles, cans, etc. One inspector testified that he observed dumping on October 21, 1970 and January 7, 1971. Another inspector said he observed that dumping had taken place on November 3, 1971. There were numerous other dates alleged for open dumping however they were not proved adequately. Open dumping can be proved either by actually observing the dumping taking place or by proving that there was new material added to the site from one date to another. Reference is made to Sections 3(h) and 3(L) of the Act which define "open dumping" and "sanitary landfill". The

essential elements of open dumping are contained therein. We find open dumping violations on October 21, 1970, January 7, 1971 and November 3, 1971.

It was alleged that the respondent caused or allowed open burning in violation of Section 9(c) of the Act and Rule 3.05. The inspector testified that he saw burned materials on August 13, 1971 and October 20, 1971 and that he saw actual burning of logs and garbage on November 3, 1971 and November 4, 1971. We find that the violations did occur on those four dates.

It was alleged that the respondent failed to provide sufficient equipment in violation of Rule 5.05. The inspector testified that there was no operable equipment at the site on August 13, 1971, October 20, 1971, November 3, 1971 and November 4, 1971. We find that the violations did occur on those four dates.

It was alleged that the respondent failed to properly spread and compact refuse in violation of Rule 5.06. The inspectors testified that there was no spreading or compacting of any refuse on October 21, 1970, January 7, April 12, August 13, September 23, October 20, November 3, and November 4, 1971, January 17, January 18, January 31, February 1, May 9 and May 10, 1972. There was testimony that the materials were just stockpiled and lying over most of the site. We find that the violations did occur on those dates.

It was alleged that the respondent failed to provide daily cover in violation of Rule 5.07 (a). The inspectors testified that there was no cover whatsoever provided on October 21, 1970, January 7, April 12, October 20, November 3 and November 4, 1971, January 17, January 18, January 31, and May 9, 1972. We find that the violations did occur on those dates. There were three additional dates alleged for cover violations which were not adequately proved.

It was finally alleged that the respondent failed to properly conduct salvage operations at the site in violation of Rule 5.10. The rule provides that if salvage operations are carried out they must be conducted in a sanitary manner, they must be confined to an area remote from the operating face of the fill, they shall not interfere with or delay the fill operation, and all salvaged materials must be moved from the site daily or properly stored such that they will not create a nuisance, rat harborage or unsightly appearance. The inspectors testified that salvage operations were being carried out at the site including materials such as metals, desks, bicycles, stoves, lumber and hot water tanks. They further

testified that these materials were being stockpiled over wide areas at random, in an unsanitary manner, not remote from the fill face and with an unsightly appearance. The dates involved were October 21, 1970, January 7, April 12, July 21, August 13, September 23, October 20, November 3, and November 4, 1971, January 17, January 18, January 31, February 1, May 9, and May 10, 1972. We find that the violations did occur on those dates.

Considering all the facts we will assess a penalty of \$1000. We expect, however, that all violations at the site be corrected immediately.

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

ORDER

1. Respondent shall cease and desist from all violations found in this opinion.
2. Respondent shall pay to the State of Illinois the sum of \$1000 as a penalty for the violations found in this proceeding by January 31, 1973. 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 was adopted on the 16th day of January 1973 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board

