

ILLINOIS POLLUTION CONTROL BOARD

January 23, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 72-201
)
 THOMAS CHIRILLO, d/b/a/ THOMAS)
 CHIRILLO COMPANY,)
)
 Respondent.)

Herman R. Tavins, Assistant Attorney General for the EPA
James A. Regas, Attorney for Respondent

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

Respondent operates a refuse disposal site occupying about 48 acres near Interstate Route 94 and 130th St., Chicago, Illinois. The EPA alleges that Respondent's refuse disposal operation was conducted without a permit and that Respondent was guilty of the following: open dumping of garbage, open dumping of refuse, open burning of refuse, failure to provide adequate fencing, failure to confine dumping to the smallest practical area, permitting the unloading of refuse without supervision, failure to spread and compact refuse, failure to apply adequate daily or final cover and allowing refuse to be deposited in standing water. The violations are alleged to have occurred on August 23 and 24, 1971, September 7 and 8, 1971, September 17, 1971 and February 29, 1972.

This matter is submitted to us upon an Agreed Statement of Facts. The attorneys did not make opening or closing arguments. No photographs or EPA investigative reports were offered in evidence. Some testimony was offered, for the purpose of mitigating penalty, that Respondent had complied with regulations subsequent to the dates of the alleged violations.

It appears from the Stipulation of Facts that the landfill in question is one mile from the nearest residential area and about six-tenths of a mile from the nearest industrial or commercial area. The property is adjoined by another landfill and by a lock and dam. Respondent has operated the refuse disposal site solely for his own trucks and not for the use of any other refuse hauler. He brought an average of 8 to 10 truckloads of refuse to the site daily.

On the dates in question, refuse not exceeding 30 yards of materials, or approximately one truckload, was found to contain garbage from one of the industrial accounts serviced by the Respondent. The Stipulation does not say that Respondent failed to cover the garbage, but it is clearly stipulated that a similar quantity of refuse not exceeding one truckload of materials was allowed to be dumped without providing an adequate daily cover. We, therefore, find that Respondent did permit the open dumping of refuse.

An area of approximately 20 square feet emits a vapor type smoke from a long smoldering fire which has been covered by the required amount of fill. This area was covered about January 16, 1969 pursuant to the terms of an agreement entered into with the Illinois Department of Public Health and a Decree entered by Judge Donald J. O'Brien in Case No. 69 CH 1345, Circuit Court of Cook County, County Department, Chancery Division. At the time of the entry of this Decree all parties acknowledged the presence of this smoldering fire and agreed that a reasonable period of time should be allowed to pass to determine whether the fire would eventually extinguish itself. The smoldering fire has diminished in area from approximately 200 square feet to an area of approximately 20 square feet. This is not a large fire but we believe Respondent should have taken the necessary steps to have it extinguished long ago. Surely the agreement to allow a "reasonable period of time" in January 1969 did not contemplate a three year delay in extinguishment of the fire. We, therefore, find that Respondent has permitted the open burning of refuse as alleged in the Complaint.

It is further stipulated that Respondent allowed refuse to be deposited in an area of accumulated rain water approximately 50 feet square in violation of the Refuse Rules; that Respondent permitted refuse to be dumped without being immediately spread and compacted, although it was spread and compacted at the time cover was applied; that Respondent would cause refuse to be dumped into two separate locations on the site, instead of one location, depending on the content of the refuse being dumped; that Respondent failed to provide adequate fencing during the period in question but later complied fully with the fencing regulation. These conclusions were not supported by any further details and appear to be an agreement that there were minor housekeeping violations. The Stipulation further states that all of the unloading of refuse was done by employees of the Respondent and that there was a full-time supervisor on the premises as well as a night-time security service. This appears to us to be adequate supervision for the unloading of the refuse.

On April 24, 1969 Respondent submitted to the Illinois Department of Public Health, Division of Sanitary Engineering, an Application for Registration of the Refuse Disposal Site. The Department of Public Health acknowledged receipt of this registration form in May 1969.

The Respondent was under the impression that this registration with the Illinois Department of Public Health was all that was required for his operation of the refuse disposal site. He failed to obtain a permit from the Environmental Protection Agency as is required by Section 21(e) of the Environmental Protection Act. Respondent may not have had wrongful intent in the matter, but he did violate the Statute by operating the refuse disposal site without a permit.

These violations are not substantial. For violations of this nature we believe a monetary penalty of \$300 is adequate. The Respondent in addition to paying the penalty, shall obtain a permit from the Environmental Protection Agency and shall cease and desist from the said violations of the Environmental Protection Act.

ORDER

It is ordered that:

1. Respondent shall pay to the State of Illinois by March 1, 1973 the sum of \$300 as a penalty for the violations found in this proceeding. Penalty payment by certified checks or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Drive, Springfield, Illinois 62706.
2. Respondent shall immediately cease and desist from all violations found in this proceeding; except that Respondent shall have a period of time as specified in Paragraph 3 of this Order within which to obtain a permit for the operation of the landfill.
3. Respondent shall have six months from the date of this Order within which to obtain a permit from the Illinois Environmental Protection Agency for the operation of his refuse disposal site. If Respondent has failed to obtain a permit within that period of time the refuse disposal site shall be closed and final cover applied under the supervision of the EPA.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 23RD day of January, 1973, by a vote of 3 to 0.

Christan L. Moffett

