



Although Respondent Rink was properly named as a party to this proceeding, and was properly served with legal process, he did not appear at the public hearings. The evidence at the hearings showed that Rink on a number of occasions was made aware that the Agency considered the operations at the landfill site to be in violation of the pollution control regulations (R.199, 202, 235-239, 246).

Baker was the only Respondent who testified as a witness at the hearing. He admitted that 5 to 20 truckloads of refuse per day had been deposited at the site throughout the time period of interest here, and even extending up until the time of the hearing (R.39-40). Baker also said there had been burning (R.41) and that they had tried but failed to extinguish the fires (R.52, 61-62). He admitted that the only fire protection was that provided by using a bulldozer to cover the fire with dirt (R.51-52, 61). Respondent Baker also admitted he had seen rats and flies on the site (R.50-51), that there had been blowing of litter (R.46), that no portable fences had been installed (R.47), and that salvage operations had taken place (R.49-50, 63-64). Throughout the time period of interest here, Respondents Baker and Broverman frequently visited the dump site (R.33-34).

Baker testified that he continued to receive refuse at the dump site and continued not to provide cover (R.55-56) even after he had received notices of violations from the Agency (R.52-53). He said that an application for permit was filed with the Agency in May of 1972 (after filing of the Complaint herein) but no permit has been issued (R.37, 71-72).

Several Agency witnesses testified about numerous visits to the dump site from July of 1970 up through March of 1972. The Agency photographer took pictures of the dump site on August 28 and December 9 and 10 of 1970, and on July 1 and 2 and November 24 of 1971. These photos (Exhs. 1, 6 -19, 21-26) depict the enormity and seriousness of the dumping and burning offenses.

The photos show monstrous piles of assorted rubbish including all manner of garbage and trash, boxes, cans, glass, tires, steel drums, refrigerators and other appliances, hot water tanks, tractors and parts of and entire junked automobiles. In addition the record shows that the dump site contained manure and blood waste from a slaughterhouse (R.38, 82). The dump received all the garbage and trash from the City of Taylorville (R.39). Several of the photos show smouldering undersurface fires, some accompanied by open flames (Exhs. 7-13, 21-26).

Agency witness Eisenkoff inspected the dump site on July 29, August 28, October 15 and November 19 of 1970, and on June 24 and August 30 of 1971. He described the large volume of refuse present on these dates (R.114, 120, 121, 123, 125, 128), the noticeable odor (R.114, 120, 121), the lack of spreading or cover (R.114, 119, 120, 121, 123, 125, 128, 130, 146), the burning of refuse (R.115, 146-147), a heavy fly population (R.115, 120, 121, 126), the presence of rats (R.115, 142-145), and the absence of fire control equipment (R.124, 126, 129). Eisenkoff spoke several times with the Respondent Broverman (R.124-125, 126-127) who at first refused to identify himself (R.115-116).

Agency witness Lambert gave similar testimony about visits he made to the site on July 22, 1971 (R.154-156) and October 7, 1971 (R.156-159; also see photos Exhs. 32,33), as did Agency witness Beck concerning visits on December 18, 1970 (R.191-192, 195-199), January 12 (R.192-193, 199), February 24 (R.194, 199), April 15 (R.199-200) and November 23 (R.200) of 1971, and February 24, 1972 (R.201). Witness Toberman for the Agency testified in like manner as to his visits to the dump on July 1 and 2 (R.211-215), September 22 (R.216-217), November 4 (R.217-218) and November 23 (R.218-219) of 1971, and on January 6 (R.219) and March 8 (R.219-220) of 1972. Agency witness Stauffer testified to his observations along the same lines during visits to the dump made on November 9 (R.233-235), November 30 (R.235-237) and December 9 and 10 (R.237-239) of 1970, on July 1 and 2 (R.239-241), July 22 (R.241-243) and November 24 (R.243,244) of 1971, and on January 11, 1972 (R.245-246).

A number of witnesses testified on behalf of Respondents that the landfill had been in existence as such for a number of years, and that some compacting and covering operations had taken place especially recently (R.252 et seq).

By motions made before, during and after the public hearing Respondents seek to have the complaints dismissed on vaguely stated constitutional grounds. These motions are without merit for various reasons, many of which were discussed in early Board decisions (eg. see EPA v. J.M. Cooling, PCB70-21, dated September 9, 1970), and accordingly are denied.

We find that the record evidence overwhelmingly supports the various allegations of the amended complaint. It is difficult to imagine a landfill case more pervasive than this one. The enormous size of the open dump, the smelly nature of the garbage and slaughterhouse wastes, the open burning, the rats, etc. add up to a most undesirable situation.

And it is particularly disturbing that the Respondents continued these long-standing violations in spite of repeated Agency warnings and requests that they stop. Moreover, Respondents' defiant and obstructive attitude displayed at the public hearings was hardly helpful to a resolution of the issues.

A cease and desist order will be issued as well as an order to cover the dump, and under the circumstances we believe fairly stiff money penalties are justified, in the amounts of \$5,000 for each of Respondents Baker and Broverman, and \$2,000 for Respondent Rink (whose liability extends over only the initial part of the time period, when he was an owner of the property).

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

#### ORDER

1. Respondents shall cease and desist from causing and allowing open dumping of refuse and causing and allowing open burning of refuse at their Taylorville Landfill.
2. Respondents shall immediately spread and compact the refuse at the Taylorville Landfill, and apply final cover to it, which condition shall exist until such time as the Agency may issue a permit for operation of a landfill.
3. Respondent Baker shall pay to the State of Illinois by October 18, 1972 the sum of \$5,000 as a penalty for the violations 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 Road, Springfield, Illinois 62706.
4. Respondent Broverman shall pay to the State of Illinois by October 18, 1972 the sum of \$5,000 as a penalty for the violations 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 Road, Springfield, Illinois 62706.
5. Respondent Rink shall pay to the State of Illinois by October 18, 1972 the sum of \$2,000 as a penalty for the violations 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 Road, Springfield, Illinois 62706.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14<sup>th</sup> day of September, 1972 by a vote of 4 to 0.

Christian L. Moffett