

ILLINOIS POLLUTION CONTROL BOARD
October 13, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-472
)
WESTERN RECREATIONAL PROPERTIES,)
INC., an Illinois corporation,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

The original complaint in this case was filed on December 15, 1975 by the Illinois Environmental Protection Agency (Agency). Subsequently two amended complaints were filed on January 19, 1977 and March 22, 1977. The third amended complaint alleged several violations of Sections 21(a) and 21(b) of the Environmental Protection Act (Act) and of Rules 305(a), 305(c), and 314(c) of the Chapter 7: Solid Waste Regulations (Regulations). Testimony was taken on December 28, 1976; however, this hearing was continued. On three other dates, March 8, 1977, May 5, 1977, and June 9, 1977 the parties met for hearings. No testimony or public comment was given on these three dates. At the June 9, 1977 hearing a stipulation and a proposal for settlement was presented for Board approval.

The stipulation provides the following factual background. At all times pertinent Chicago Title and Trust Company, a/t/u Trust No. 61144, has been the legal owner of a parcel of land located in Sections 4 and 9, Township 32 North, Range 3 East, in the County of Will, Illinois. Respondent, Western Recreational Properties (Western) at all times pertinent hereto has been the beneficial owner of the site, as sole beneficiary of Trust No. 61144. Western was a corporation organized and existing under the laws of the State of Illinois until December 2, 1974, when it was involuntarily dissolved. Western was reinstated as a corporation on February 2, 1977. The site is located in an area that is primarily undeveloped. The city of Braidwood, Illinois is located approximately one-half mile from the site and there are scattered residences near the site.

Various inspection reports by the Agency and photographs taken by Agency personnel and representatives of the Will County Health Department are attached to the stipulation as exhibits. These cover a time period from February 13, 1974 to September 14, 1976.

At no time has Western or any officer, agent or employee thereof dumped, caused to be dumped, or authorized the dumping of garbage or refuse at the site. The site has been posted with no dumping and no trespassing signs since the summer of 1973, and additional signs were placed at the site in September, 1974. All garbage and refuse present at the site has been placed there without the authorization or approval of Western. However, Western has allowed the dumping of refuse and garbage at the site by failing to limit access thereto. Western has no other assets than the subject site.

The parties further stipulated that on each day since July 27, 1973, Western has allowed the open dumping of garbage and refuse in violation of Sections 21(a) and 21(b) of the Act; that on each day since July 27, 1973, Western has allowed the operation of a refuse disposal site without providing fencing, gates or other measures adequate to control access to the site in violation of Rule 314(c) of the Regulations and Section 21(b) of the Act; that on each day since July 27, 1973, Western has failed to place a compacted layer of not less than six inches of cover material on all exposed refuse at the site in violation of Rule 305(a) of the Regulations and Section 21(b) of the Act; and that on each day since July 27, 1973 Western has failed to place a compacted layer of not less than two feet of cover over the entire surface of the final lift of the site within sixty days following the placement of refuse in said final lifts in violation of Rule 305(c) of the Regulations and Section 21(b) of the Act.

The parties agree that the accumulation of refuse at the site is due primarily to the accessibility of the site to car and truck traffic. To the knowledge and belief of the parties, the sole injury to, or interference with the protection of the health, general welfare and physical property of the people is as set forth in the stipulated facts. Complainant and Western agree that it is technically feasible and economically reasonable to limit access to the site and to close the site in conformance with the Act and the Regulations.

The stipulation provides a plan to bring the site into compliance which includes (among other steps): the site will be properly covered, graded and seeded by September 1, 1977; within three weeks of Board acceptance of this stipulation access of the site will be limited by the use of utility poles or railroad ties, cable and barbed wire fencing; upon completion of closure Western shall file a detailed description of the site, including a plat, with the Will County Recorder of Deeds; and Western will submit monthly progress reports to the Agency as well as give notice of final closure within a week thereof. Western also agrees to pay a penalty of \$200 for the admitted violations.

The Board finds the proposed stipulation and settlement agreement acceptable under Procedural Rule 331. Respondent is found to have been in violation of Sections 21(a) and 21(b) of the Act; Rule 314(c) of the Regulations and Section 21(b) of the Act; and Rules 305(a) and 305(c) of the Regulations and Section 21(b) of the Act. The stipulation provides sufficient information relating to Section 33(c) of the Act. A penalty of \$200 will be assessed.

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

ORDER

It is the order of the Pollution Control Board that:

1. Respondent, Western Recreational Properties, Inc., is found to have been in violation of Sections 21(a) and 21(b) of the Environmental Protection Act; Rule 314(c) of the Chapter 7: Solid Waste Regulations and Section 21(b) of the Act; and Rules 305(a) and 305(c) of the Regulations and Section 21(b) of the Act.
2. Respondent shall undertake the plan outlined in the settlement proposal to come into compliance with the Rules and Regulations. The compliance plan is incorporated into this order by reference as if it were fully set out herein.
3. Respondent shall pay a penalty of \$200 within 35 days of this order. Payment shall be by certified check or money order payable to:

State of Illinois
Fiscal Services Division
Environmental Protection Agency
2200 Churchill Road
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 13th day of October, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board