

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-213
)
DONALD TWEEDY,)
)
 Respondent.)

MR. WILLIAM E. BLAKEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. ROBERT D. ACTON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency (Agency) on August 8, 1978 charging Respondent, Donald Tweedy, with various violations of Section 21 of the Environmental Protection Act (Act) and Board Rules, Chapter 7: Solid Waste Regulations. The complaint alleged that Respondent owns a forty-six acre refuse disposal site near Hoopeston in the NW 1/4 of Sec. 19, T. 23 N., R. 11 W., 2 PM, in Vermilion County, Illinois. Count I charged violations of Section 21(e) of the Act and Rule 202(b), failure of an existing site to obtain an operating permit from the Agency within one year of the effective date of Chapter 7, July 23, 1973. Counts II and III charged violations of Section 21(b) of the Act and Rules 3.04 and 5.07 of the Rules and Regulations of the Division of Sanitary Engineering of the Department of Public Health. These proscribe open dumping and failure to provide six inches of daily cover and two feet of final cover within six months in areas where no more refuse is to be deposited. Counts IV and V alleged similar violations of Section 21(a) and 21(b) of the Act and Board Rules 301 and 305(a) and 305(c), open dumping of garbage and open dumping of other refuse in violation of Rules requiring six inches of daily cover and two feet of final cover within sixty days following the final placement of refuse.

A public hearing was held on April 5, 1979 at the Vermilion County Courthouse in Danville. At that time the parties presented a stipulation and proposal for settlement in lieu of an evidentiary hearing. No members of the public were present and no comments have been received on the settlement. This Opinion is based upon the stipulated statement of facts in which Respondent admits the substantial allegations of the Complaint.

Respondent was issued an operating permit for the site by the Department of Public Health on February 11, 1970 and has caused or allowed its use for refuse disposal since that date. Section 21(e) and Rule 202(b) required Respondent to obtain an operating permit from the Agency within one year of July 23, 1973. Respondent never obtained such a permit, although he obtained a developmental permit on March 10, 1975. Respondent admits that on numerous occasions since 1971 he operated without applying six inches daily cover or two feet of final cover. Respondent further admits that he received several notices regarding violations of the Act and Rules.

The stipulated agreement provides for a penalty of \$1000 and a plan to bring the site into compliance by June 1, 1979. Respondent is to apply, by June 1, 1979, two feet of suitable cover material on areas indicated on the site map, marked Ex. A (Stip.), as "Present Landfill Area" and "Future Area #1" and is to confine his daily operations to "Future Area #2". He is also to bring his daily operation into general compliance, prepare a new site plan and request an operational permit from the Agency no later than June 1, 1979. The site plan shall be prepared by an engineer and shall address the following:

1. present site conditions and development;
2. proposed future development and operation;
3. final elevations of the finished landfill site.

Respondent admits that compliance with the Act and Rules was at all times technically practical and economically reasonable. The parties stipulate, however, that the operation of the site provides a service which is of social and economic value. The Board finds that a penalty is necessary to aid enforcement of the Act in view of the duration and nature of the violations and the fact that Respondent was given notice that he was in violation. The Board has considered Section 33(c) in connection with this settlement and finds that a penalty of \$1000 is reasonable, considering the social and economic value of the site. The Board finds the stipulation and settlement agreement acceptable under Rule 331 of the Procedural Rules.

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. The Board finds Respondent Donald Tweedy in violation of Section 21(a), (b) and (e) of the Act, Rules 3.04 and 5.07 of the Rules and Regulations of the Division of Sanitary Engineering of the Department of Public Health and Rules 301, 305(a) and (c) of Chapter 7: Solid Waste Regulations.
2. Respondent is ordered to comply with the terms of the stipulated agreement which is hereby incorporated by reference.
3. On or before June 1, 1979 Respondent shall submit a new site plan to the Agency and request an operating permit.
4. Within forty-five days of the date of this Order, Respondent shall pay a penalty of \$1000 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 10th day of May, 1979 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board