

ILLINOIS POLLUTION CONTROL BOARD
October 4, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-68
)
JOHN HARTMAN,)
)
Respondent.)

MR. DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. ROBERT E. NELSON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Werner):

This matter comes before the Board on the March 13, 1978 Complaint brought by the Illinois Environmental Protection Agency which alleged that, from March 19, 1976 until March 13, 1978, John Hartman operated a solid waste management site without an Agency Operating Permit in violation of Rule 202(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act. A hearing was held on June 16, 1978. The parties filed a Stipulation and Proposal for Settlement on June 21, 1978.

The Respondent is the record title owner of real estate in Aurora Township, Kane County, Illinois. During the time period between March 19, 1976 and March 13, 1978 (including, but not limited to, the dates of May 19, 1976, August 25, 1976, September 29, 1976 and January 5, 1978), the Respondent has accepted material such as broken concrete, broken blacktop, gravel, sand and clean fill on his property.

On August 8, 1976; September 29, 1976; and November 8, 1976, the Respondent was informed either by letter or orally by Agency representatives that an Operating Permit was needed for the site in question. However, the Respondent did not apply for or receive an Operating Permit to operate the solid waste management site.

After the Agency filed its Complaint against the Respondent, the parties engaged in settlement discussions and filed a Stipulation and Proposal for Settlement. This settlement agreement provides that the Respondent shall: (1) place final cover on the site by October 31, 1978 (the cover material must be free of objects which would hinder compaction or support vector habitation); (2) restrict access to the land by blocking all entrances and taking reasonable steps to discourage others from entering the land for the purpose of dumping; (3) fully comply with the completion or closure requirements of the Board's Solid Waste Rule 318; and (4) pay a stipulated penalty of \$300.00 .

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds John Hartman in violation of Rule 202(a) of Chapter 7: Solid Waste Rules and Regulations and Section 21(e) of the Illinois Environmental Protection Act from March 19, 1976 until March 13, 1978. The Board imposes the stipulated penalty of \$300.00 .

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. John Hartman has violated Rule 202(a) of Chapter 7: Solid Waste Rules and Regulations and Section 21(e) of the Illinois Environmental Protection Act from March 19, 1976 until March 13, 1978.
2. Within 35 days of the date of this Order, John Hartman shall pay the stipulated penalty of \$300.00 , payment to be made by certified check or money order to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

3. John Hartman shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed June 21, 1978, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Mr. Goodman abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4th day of October, 1978 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board