

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1978

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 77-263
)
LEONARD C. TRIEM,)
)
Respondent.)

MS. JUDITH S. GOODIE, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

KLEIN, THORPE AND JENKINS, LTD., ATTORNEYS AT LAW (MR. E. KENNETH FRIKER, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the October 5, 1977 Complaint brought by the People of the State of Illinois. Count I of the Complaint alleged that the Respondent, Mr. Leonard C. Triem, had operated his solid waste management site in such a manner as to violate Rules 303(b), 303(c), 304, 305, 305(a), 305(b), 306 and 313 of Chapter 7: Solid Waste Regulations and Section 21(f) of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that violations of Section 9(a) of the Act occurred. Count III of the Complaint alleged violations of Rule 310(b) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Act. On November 23, 1977, the Complainant filed a motion for leave to file an Amended Complaint. On December 8, 1977, the Board granted the Complainant's motion. The Amended Complaint specified the dates on which the alleged violations occurred; provided more details on the nature and extent of the alleged violations; and added an alleged violation of Solid Waste Rule 314(c) to Count I of the original Complaint. A hearing was held on April 28, 1978. The parties filed a Stipulation and Proposal for Settlement on April 28, 1978.

I. The Facility Involved

Between 1971 and January 1, 1978, Respondent Leonard C. Triem owned and operated a solid waste disposal site consisting of 182

acres located near Goodenow Road, north of Beecher, Illinois in Will County.

The property was used for farming prior to its development by the Respondent as a solid waste disposal site. During the period relevant to the Complaint, a great majority of the site which was not yet needed for landfill purposes was leased out for farming. It is located just south of the developing area of southern Cook County, near the intersection of two highways (i.e., Illinois I and US 394). The site is bounded on the east by tracks of the Chicago and Eastern Illinois Railroad (now part of the Missouri Pacific); on the north by the unincorporated community of Goodenow; and on the west and south by farmland. A small stream, Plum Creek, runs through the property; but at a distance from the area presently being used for landfill purposes.

There was considerable opposition to development of the site for landfill purposes from the citizens of Goodenow. However, the Agency felt that the site was suitable and Permit No. 1971-24 was issued on June 28, 1971. The Permit provided that the site was to handle solid waste from a population of approximately 133,000; and that no pumpable liquid wastes were to be accepted. However, the Agency subsequently issued numerous supplemental permits for liquid waste disposal, subject to the condition that liquid and solid wastes would be received in a ratio such that there would be sufficient solid material to absorb the liquid. (Stipulation, p.2).

II. The Nature and Extent of Alleged Violations

The People have alleged the following violations:

1. On August 5, 1977, August 25, 1977, and September 1, 1977, Respondent caused or allowed violations of Rule 313 of Chapter 7: Solid Waste Regulations; in that on those dates he caused, threatened, or allowed the discharge of contaminants into the environment in Illinois so as, either alone or in combination with matter from other sources, to cause or tend to cause water pollution in Illinois (Count I, Paragraph 3). Throughout July and August, 1977, he caused or allowed emission of odors which have unreasonably interfered with the enjoyment of life or property (Count III). And on August 5, 1977, August 25, 1977, and September 1, 1977, Respondent caused or allowed violations of Solid Waste Rule 310(b) and Section 21(e) of the Act; in that on those dates liquid wastes were accepted at the site of such a character of in such a manner as was not authorized by permit (Count III).

These violations all relate to the acceptance at the landfill of liquid wastes without sufficient accompanying solid material to

be absorbed. Pursuant to Supplemental Permit 77-689, Respondent was authorized to accept approximately 200,000 gallons of sludge from the Municipal Sanitary District of Homewood. This sludge was to be incorporated into the daily operating fill face, with lime slurry available (Supplemental Permit 77-689, Section III B). But inspections by Henry Cobo of the Agency on August 5, 1977, August 25, 1977, and September 1, 1977 found that those procedures were not being followed. As a result, the sludge was standing on the site, seeping into trenches, and causing unreasonable odors at neighboring residences; in violation of the aforesaid regulations. (Stipulation, p. 3-4).

Copies of the Agency inspection reports for August 5, 1977, August 25, 1977, and September 1, 1977, which indicate these conditions, are attached to the Stipulation and Settlement Agreement. If a full hearing were conducted in this matter, Complainants would present, in addition to these reports, testimony by Mr. Henry Cobo of the Agency and by citizens of the Goodenow area regarding, respectively, the improper sludge disposal and the resulting odor. (Stipulation, p. 4).

Respondent points out that the sludge disposal problem was corrected during September 1, 1977; and that these problems did not recur through January 1, 1978, when the site was transferred to a new owner.

2. On March 19, 1975, August 12, 1975, January 28, 1976, November 19, 1976, August 5, 1977, August 25, 1977, and September 1, 1977,* Respondent caused or allowed violations of Solid Waste Rule 305(a) by failing to place adequate daily cover on exposed refuse.

3. On March 3, 1976, August 5, 1977, August 25, 1977, and September 1, 1977,* Respondent caused or allowed violations of Solid Waste Rule 303(c), in that the slope of the working face was maintained at a ratio greater than two horizontal to one vertical.

4. On August 12, 1975, March 3, 1976, May 4, 1976, August 5, 1977, August 25, 1977, and September 1, 1977,* Respondent caused or allowed violations of Solid Waste Rule 305(b) in that suitable intermediate cover was not provided.

*Copies of Agency inspection reports for these dates have been attached to and incorporated into the Stipulation and Settlement Agreement, and the Agency has indicated that if a full hearing were conducted in this matter, the testimony of various Agency personnel pertaining to their observations of conditions at the site would be presented.

5. On March 19, 1975, January 28, 1976, March 3, 1976, and May 4, 1976,* Respondent caused or allowed violations of Solid Waste Rule 303(a) in that on those dates refuse was not deposited into the toe of the fill.

6. On March 3, 1976, and August 5, 1977,* Respondent caused or allowed violations of Solid Waste Rule 303(b) in that on those dates refuse was not spread and compacted in layers within the cell, not exceeding a depth of two feet as rapidly as deposited at the toe of the fill.

7. On August 5, 1977,* Respondent caused or allowed violations of Solid Waste Rule 304, in that sufficient equipment was not available at the site (i.e., no standby equipment was available) to ensure that operations comply with the operating permit, the Act, and the Regulations.

8. On March 19, 1975, November 19, 1975, August 5, 1977, and September 1, 1977,* Respondent caused or allowed violations of Solid Waste Rule 306, in that all litter was not collected from the site by the end of the working day and either placed in the fill and compacted and covered or stored in a covered container.

9. On August 5, 1977,* Respondent caused or allowed violations of Solid Waste Rule 305; in that improper material was used for cover (i.e., there was improper use of shingles as cover).

10. On September 24, 1977, Respondent caused or allowed violation of Solid Waste Rule 314(c) in that on that date the gates to control access to the site were not maintained.

If a full hearing were conducted in this matter, Complainants would present testimony that on September 24, 1977, at approximately 4:00 A.M., a tanker truck driver used a key in his possession to enter the site and dump a load of waste when no one was on duty at the site. (Stipulation, p. 8).

11. On January 28, 1976, and March 3, 1976, Respondent caused or allowed violations of Solid Waste Rule 310(b) and Section 21(e) of the Act, in that liquid wastes were accepted at the site of such a character as was not authorized by permit.

These violations consist of the acceptance at the site on the specified dates of liquid pharmaceutical waste from Inolex Pharmaceuticals; after the expiration of supplemental Permit No. 75-6 which has previously authorized their receipt.

III. Present Status of the Site

The parties agree that during the fall of 1977 the problems at the site were corrected by the Respondent. Effective January 1, 1978, ownership and control of the site was transferred from Respondent to John Sexton Contractors, Inc. Since that date, Mr. Leonard C. Triem has had no control of or interest in the site or the operation of the site. (Stipulation, p. 8).

The Stipulation also indicates that "John Sexton Contractors, Inc., is not a party to this action; and this Stipulation and Settlement Agreement shall have no application and no effect whatsoever on the duties of John Sexton Contractors, Inc. in the operation of the site subsequent to January 1, 1978, or the powers and duties of the People of the State of Illinois or the Illinois Environmental Protection Agency regarding the said operation." (Stipulation, p. 8-9).

IV. Penalty

In settlement of the alleged violations, the parties have agreed that a stipulated penalty of \$1,000.00 to be paid by the Respondent, Mr. Leonard C. Triem, is appropriate. (Stipulation, p. 9).

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 Illinois Environmental Protection Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

The Board finds that the Respondent, Mr. Leonard C. Triem, operated his Will County solid waste management site on the previously specified dates in such a manner as to violate Rules 303(a), 303(b), 303(c), 304, 305 305(a), 305(b), 306, 310(b), 313, and 314(c) of Chapter 7: Solid Waste Regulations and Section 9(a) and Section 21(e) of the Illinois Environmental Protection Act. Accordingly, the Board hereby imposes the stipulated penalty of \$1,000.00 against the Respondent, Mr. Leonard C. Triem.

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. The Respondent, Mr. Leonard C. Triem, has violated Rules 303(a), 303(b), 303(c), 304, 305, 305(a), 305(b), 306, 310(b), 313, and 314(c) of Chapter 7: Solid Waste Regulations and Section 9(a) and Section 21(e) of the Illinois Environmental Protection Act.

2. Within 45 days of the date of this Order, the Respondent, Mr. Leonard C. Triem, shall pay the stipulated penalty of \$1,000.00 , 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. The Respondent, Mr. Leonard C. Triem, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed April 28, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of November, 1978 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board