

ILLINOIS POLLUTION CONTROL BOARD
January 21, 1982

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 81-63
)
GENE JARACZEWSKI,)
)
Respondent.)

MS. BARBARA CHASNOFF, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.
MR. GENE JARACZEWSKI APPEARED ON HIS OWN BEHALF.

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board on a complaint filed with the Board by the Illinois Environmental Protection Agency (Agency) on April 21, 1981, alleging various violations of the Environmental Protection Act (Act) and the Board's Chapter 7: Solid Waste Rules. Hearing was held on September 14, 1981 at which only Barbara Chasnoff, Assistant Attorney General, appeared. Gene Jaraczewski, though given proper notice, did not appear at the hearing, nor did any members of the public attend. The hearing consisted solely of a brief summary of the proceeding by Ms. Chasnoff and the submission of a Stipulation and Proposal for Settlement which was signed by both parties. Thus, the only evidence before the Board is that Stipulation (Joint Exhibit 1).

Mr. Jaraczewski admits to owning and controlling the subject property located in LaSalle County on the east side of Rockwell Road approximately ¼ mile south of Illinois Route 6 during the relevant time periods. He further admits that he has allowed refuse to be placed on the subject property at least on July 27; September 28 and November 16, 1978; March 13 and December 19, 1979; and February 11, April 22, August 18, September 17 and October 16, 1980. He further admits that he "does not have a permit from Illinois Environmental Protection Agency to operate a refuse disposal site" on the subject property, "although he had been aware of others placing refuse on the site" (Stip. 2). Finally, he admits that "in March of 1981, he caused cover to be placed over the majority of the area and fenced in the area" (Stip.2). No other facts material to a finding of violation are included.

Based upon these facts the Board finds that Mr. Jaraczewski operated a refuse disposal site without a permit in violation

of 201, 202(b)(1), 303(b) and 305(a) of Chapter 7 and Sections 21(a) and (d) of the Act.

The Board notes that inferences must be drawn from the stipulation in order to find any violation at all in this case and would normally reject this stipulation in that it failed to:

1. Present a full stipulation of all material facts pertaining to nature, extent, and causes of the alleged violations [Procedural Rule 331(a)(1)];
2. Give any explanation for past failures to comply and an assessment of the impact on the public resulting from non-compliance [Rule 331(a)(3)].

However, since the facts presented do not indicate any real potential for serious environmental harm, the Board will accept the stipulation in this case. The Board further finds that the proposal for settlement contains sufficient terms to insure that current problems will be abated and that future problems will not arise. Also, the proposed penalty of \$750 is appropriate to aid in the enforcement of the Act.

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

ORDER

1. Gene Jaraczewski has violated Rules 201, 202(b)(1), 303(b) and 305(a) of Chapter 7: Solid Waste, and Sections 21(a) and (d) of the Act at the times alleged.
2. Gene Jaraczewski shall comply with all the terms and conditions of September 14, 1981 Stipulation and Proposal for Settlement of this matter, which is hereby incorporated by reference as if fully set forth herein.
3. Within 45 days of the date of this Order, Gene Jaraczewski shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$750 which is to be sent to:

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Interim Opinion was adopted on the 21st day of January, 1982 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board