

ILLINOIS POLLUTION CONTROL BOARD  
March 25, 1976

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
Complainant, )  
 )  
v. ) PCB 75-279  
 )  
DONALD KODRICK, DONALD KUBINSKI, and )  
LEONARD KUBINSKI, )  
 )  
Respondents. )

Mr. Marvin Medintz, Assistant Attorney General, appeared on behalf of Complainant.  
Mr. Joseph Polito appeared on behalf of Respondents.

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

The Environmental Protection Agency (Agency) originally filed a complaint on July 21, 1975 against First National Bank of Joliet as Trustee under Trust No. 842 regarding this cause. On August 26, 1975 the Agency filed an amended complaint substituting Donald Kodrick, Donald Kubinski and Leonard Kubinski, the beneficial owners and users of the land in question, as Respondents rather than the First National Bank of Joliet. The Amended Complaint charges Respondents with violating Rule 202(b)(1) of the Pollution Control Board's Solid Waste Rules and Regulations and Section 21(b) and 21(e) of the Environmental Protection Act by having operated a solid waste management facility of approximately one acre since July 27, 1974 in Will County, Illinois.

At a hearing on November 24, 1975 a Stipulation and Proposal for Settlement was presented. There was no citizen comment or other testimony presented at the hearing. The facts and agreement stipulated are as follows.

Respondents are beneficial owners of a site of approximately one acre bordered by Route 171 on the east, and by Northern Drive on the north, located in Section 13, Township 36 North, Range 10 East, Will County, Illinois. This site has been used since August 7, 1973 for the deposition of trees, dirt, building debris and discarded household articles. The site was not available to the general public. Respondents

admit having operated the site and that this was done without obtaining an operating permit from the Agency which is a violation of 202(b)(1) of the Board's Solid Waste Regulations.

Respondents have terminated use of the site and were in the process of placing final cover in accordance with Rule 305(c) of the Solid Waste Regulation and that completion will have taken place by January 1, 1976. Respondents agree not to use the site for refuse disposal without obtaining the required permit and to pay a civil penalty of \$750 for the violations charged.

The Board finds that Respondents, Kodrick, Dubinski and Kubinski, were in violation of Rule 202(b)(1) of the Board's Solid Waste Regulations and of Section 21(e) of the Act. The allegation of violation of Section 21(b) is dismissed for lack of prosecution. See E.P.A. v. E. & E. Hauling, Inc., PCB 74-473 (1975).

The Board is required to consider the criteria of Section 33(c) of the Act in reaching its decision. Based upon the admitted and stipulated facts, the Board finds the agreement and penalty to be justified in light of the degree of injury, social and economic value of the facility, site suitability, technical practicability and economic reasonableness of abatement. The Board accepts the stipulation and proposal for settlement.

This constitutes the Board's findings of facts and conclusions of law.


#### ORDER

It is the order of the Pollution Control Board that:

1. Respondents, Donald Kodrick, Donald Kubinski and Leonard Kubinski, were in violation of Rule 202(b)(1) of the Board's Solid Waste Regulation and of Section 21(e) of the Act.
2. The portion of the Complaint alleging violations of 21(b) of the Act is dismissed.
3. Respondents, Donald Kodrick, Donald Kubinski, and Leonard Kubinski, shall refrain from further use of the site for deposition of refuse without first obtaining a permit from the Agency. Final cover shall be placed on the site in accordance with Rule 305(c) of the Solid Waste Regulations.

4. Respondents shall pay a penalty of \$750 for the above named violations. Payment shall be by certified check or money order to the State of Illinois, Fiscal Services Division, 2200 Churchill Road, Springfield, Illinois 62706, within 30 days of adoption of this order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted the 25<sup>th</sup> day of March, 1976 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board