

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-30
)
ARTHUR LIGHT,)
)
Respondent.)

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. ARTHUR LIGHT APPEARED PRO SE.

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

This matter comes before the Board on the February 6, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On March 13, 1978, the Agency filed a Request for Admission of Facts and Genuineness of Documents. On April 10, 1978, the Complainant filed an Amendment to its Request for Admission of Facts and Genuineness of Documents.* On April 18, 1978, the Agency requested leave to file an Amended Complaint in this case, and the Board granted the Complainant's motion on April 27, 1978. Count I of the Amended Complaint alleged that, from June 25, 1975 until the date of filing of the Amended Complaint, the Respondent operated a solid waste management site ("site") without an appropriate Operating Permit, in violation of Rule 202 (b)(1) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II of the Amended Complaint alleged that, from May 1, 1974 until the date of filing of the Amended Complaint (including, but

*The Respondent did not respond to this request for admissions, and thus each of the matters of fact and the genuineness of each document therein is hereby deemed to be admitted under Rule 314(c) of the Board's Procedural Rules.

not limited to, the specific dates of June 25, 1975; September 25, 1975; February 4, 1976 and August 12, 1977), the Respondent failed to place suitable final cover over portions of the site, in violation of Rule 301 and Rule 305(c) of Chapter 7 and Section 21(a) and Section 21(b) of the Act. Count III of the Amended Complaint alleged that from July 20, 1976 until the filing of the Amended Complaint (including, but not limited to, the specific dates of July 20, 1976; July 30, 1976; September 2, 1976 and September 20, 1976), the Respondent failed to place adequate daily cover on exposed refuse, in violation of Rule 301 and Rule 305(a) of Chapter 7 and Section 21(a) and Section 21(b) of the Act. A hearing was held on May 26, 1978.

The Respondent, Mr. Arthur Light, owns and operates a solid waste management site in Peoria County, near Pottstown, Illinois. Although the property consists of a total of 48.4 acres, Mr. Light has been conducting his part-time landfill operations on a small proportion of the ground (i.e., about a half acre). (R.58;R.87;R.89). Yard and tree trimmings, old bicycles, and demolition wastes such as wood, brick, and concrete have been deposited on the site. (R. 17; R. 102). At least three other solid waste management sites are located within a ten-mile radius of the Respondent's property.

On May 19, 1975, the Agency granted the Respondent a Developmental Permit No. 1975-34-DE to handle heterogeneous construction and demolition materials in accordance with the application and plans prepared by Dean Correll, a registered professional engineer. (Resp. Group Exh. 1). At the hearing, Mr. John Taylor, an Agency employee, testified that his inspections of the Respondent's property revealed that the site had not been developed in full accordance with the Developmental Permit. (R. 39-40; Comp. Exh. 7-10). Moreover, a pre-operational inspection of the landfill by Agency personnel indicated several deficiencies in compliance with the terms and conditions of the Developmental Permit. (Resp. Group Exh. 2). The pre-operational inspection noted that: (1) construction of a levee to exclude flood waters from the site had not taken place; (2) wastes were observed to have been dumped into standing water in the old creek bed; and (3) the trenching method mentioned in the Developmental Permit application had not taken place. Based on the above conditions, the Agency denied the Respondent's application for an Operating Permit. (R. 39-40; R. 66-67).

At the hearing, Mr. Light testified that no wastes were dumped into standing water in the old creek bed and that "the creek bed was dry ... this water accumulated after ... the rains and after the ice" melted down. (R. 64-65). Mr. Light also testified that he had exercised good faith in trying to comply

with the Board's Solid Waste Regulations and the Act (R. 85), by drilling monitoring wells and making soil tests which "took a lot of time and expense" (R. 99); by promptly covering all but a small section of his landfill during poor weather conditions (R. 87-90); by accepting only demolition wastes which have limited environmental impact (R. 75; R. 102); by obtaining a Developmental Permit (R. 93); by having a good driveway which provides adequate access to the site (R. 92); and by conducting his covering operations "better" than the nearby Peoria County landfill (R. 90). Mr. Light also pointed out that he felt that he had "done nothing wrong" and that the enforcement action had the effect of attempting to deprive him of a living on his own property. (R. 4; R. 90-91; R. 94). Moreover, Mr. Light's testimony at the hearing indicated that he did not seem to realize the basic distinction between a Developmental Permit and an Operating Permit, and that he felt the Developmental Permit fully authorized him to operate the landfill. On the other hand, the Complainant's evidence indicated that the Agency had engaged in extensive correspondence with the Respondent (see: Complainant's Exhibits 1-18) and numerous inspections of the site in an attempt to see that full compliance was achieved.

In evaluating this enforcement action, 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. Perhaps it will be possible for the Respondent, after further consultation with, and advice from, the appropriate Agency personnel, to come into full compliance. Accordingly, the Board will require that the Respondent properly cover the filled portions of the site and apply for and obtain an Operating Permit from the Agency within 120 days of the date of this Order or cease operations. The Board finds that the Respondent has violated Rules 202(b)(1), 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Sections 21(a), 21(b) and 21(e) of the Act. The Board hereby imposes a penalty of \$200.00 against the Respondent.

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 has violated Rules 202(b)(1), 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(a), 21(b) and 21(e) of the Act.

2. The Respondent shall properly cover the filled portions of the site and apply for and obtain an Operating Permit from the Agency within 120 days of the date of this Order or cease operations.

3. Within 45 days of the date of this Order, the Respondent shall pay a penalty of \$200.00 , 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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of April, 1979 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board