

ILLINOIS POLLUTION CONTROL BOARD  
June 25, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 79-197  
 )  
K. W. CARR and MILFORD HUISINGA, )  
 )  
Respondents. )

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

MR. ROGER A. SIMPSON, DOSS & SIMPSON, APPEARED ON BEHALF OF RESPONDENT HUISINGA.

MR. KENNETH W. CARR APPEARED PRO SE.

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

This matter comes before the Board upon a complaint filed September 17, 1979 by the Illinois Environmental Protection Agency (Agency) naming as respondents K. W. Carr and Milford Huisinga. The three count complaint alleges violations of Sections 12(a), 12(d) and 21(e) of the Environmental Protection Act (Act) and Rules 202(a) and 313 of Chapter 7: Solid Waste in connection with the operation of a pesticide can recycling center in Piatt County. Public hearings were held on March 19 and September 10, 1980 in Monticello. The parties outlined the terms of a proposed settlement at these hearings. An executed stipulation and proposal for settlement was filed with the Board on April 27, 1981. Members of the public attended the first hearing but did not comment.

The site in question is owned by Milford Huisinga and is situated near Lodge within the NW 1/4 of Sec. 15, T. 19 N., R. 6 E., 3 PM, Piatt County. It comprises approximately one acre and is within 500 feet of the Sangamon River. The surface soil of the site is a brown sand and gravel changing to a light gray and gray silt loam within about twelve to twenty inches of the surface.

The site has been leased to K.W. Carr who at one time served as president and registered agent of Custom Can Crushers, Inc., an Illinois corporation which was dissolved on December 1, 1977. Beginning on approximately April 1, 1976 K. W. Carr and Custom Can collected and deposited approximately 500,000 empty five gallon pesticide cans at the site. Respondents and Custom Can

were issued a Chapter 7 development permit on November 9, 1977. The permit authorized Custom Can to prepare an agricultural metal processing operation on the site. Due to financial problems Custom Can was unable to begin to develop the site in accordance with the development permit and was unable to commence operations. The development permit expired by its own terms on November 9, 1978. No operating permit was ever issued for the site.

The cans at the site have deteriorated and rusted and have leaked chemical residue onto the ground. The Agency has identified the presence of at least thirty-two types of pesticides and residues found in and around the various cans on the site, including both herbicides and insecticides. Hazardous chemicals such as chlordane and lindane have been identified at the site. Because of the permeability of the soil at the site and its proximity to the Sangamon River and the nature of the chemicals found in the cans, the site presents a substantial threat of ground and surface water pollution.

Count I of the complaint alleges operation of a solid waste management site without an operating permit in violation of Rule 202(a) and Section 21(e). Count II alleges operation of a sanitary landfill so as to cause, threaten or allow the discharge of contaminants into the environment so as to violate regulations adopted by the Board, in violation of Rule 313 and Section 12(a). Count III alleges deposition of contaminants upon the land in such place and manner as to create a water pollution hazard in violation of Section 12(d) of the Act. Both respondents admit, and the Board finds, that they have violated the Act and Board regulations as charged in the complaint.

Prior to the first hearing Mr. Carr had had virtually all of the cans crushed and accumulated into a much smaller pile (R. 1:13). At the first hearing the parties agreed to an outline of a compliance program. In connection with a stay of this matter the Board endorsed this outline in an Order entered May 15, 1980. At the second hearing the parties presented a written memorandum of an agreement with terms very similar to those in the final stipulation and proposal for settlement (Joint Exhibit 1). At the time of the second hearing the removal of the cans was virtually complete (R2:5). The terms of the settlement required removal of all pesticide cans and other actions to be completed by April 15, 1981. Respondents signed the stipulation on April 1, 1981 and it was filed with the Board on April 27, 1981.

The other terms of the compliance plan involve leveling and grading and construction of a berm along the southern edge and a diversion ditch along the northern edge of the site. Respondents were to disc the soil and leave it exposed to the air for at least

two weeks and then apply lime and organic matter to improve the soil. An oil producing crop is to be planted to soak up the chemicals. The crops are to be destroyed off site and not sold should chemical levels exceed FDA marketability standards. Respondents are to maintain an existing vegetative strip along the northern edge of the site.

Respondents are to post warning signs and to restrict access by shoring up the existing fence and gate. A description of the bounds and conditions of the polluttional activities is to be filed with the Piatt County Recorder of Deeds. The Board notes that mere filing of the description of the property with the County Recorder is inadequate to notify prospective purchasers in a County where deeds are indexed only by grantors' and grantees' names. The Board understands the terms of the stipulation as requiring not only the filing of a description but that the description include the name of the current holder of record title.

The stipulation provides for no monetary penalty. The Board finds the stipulation and proposal for settlement acceptable under Procedural Rule 331. In making its decision the Board has considered the factors enumerated in Section 33(c) of the Act.


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

#### ORDER

1. Respondents K. W. Carr and Milford Huisinga are in violation of Sections 12(a), 12(d) and 21(e) of the Environmental Protection Act and Rules 202(a) and 313 of Chapter 7, substantially as alleged in the complaint.
2. Respondents shall cease and desist from further violations of Sections 12 and 21 of the Act and Rules 203 and 313 of Chapter 7.
3. Respondents shall comply with the terms of settlement outlined in the stipulation and proposal for settlement filed April 27, 1981, which is hereby incorporated by reference.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 25<sup>th</sup> day of June, 1981 by a vote of 4-1.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board