

ILLINOIS POLLUTION CONTROL BOARD  
July 22, 1976

ENVIRONMENTAL PROTECTION AGENCY,        )  
  )  
                                  Complainant,        )  
  )  
                                  v.                        )  
  )  
  )  
MASTER PATTERN, INC., an                )  
          Illinois Corporation,            )  
  )  
  )  
                                  Respondent.        )

PCB 75-477

ORDER OF THE BOARD (by Dr. Satchell):

The Environmental Protection Agency (Agency) filed a Motion for Reconsideration on May 27, 1976. The motion is denied.

The Board does modify the last paragraph of page 2 of the April 22, 1976 Opinion and Order by completely substituting the following paragraph:

Section 3(k) of the Act defines "refuse" as any garbage or other discarded material. The Board finds that the Agency has not met the burden of showing that "refuse" was brought in by Respondent. In Illinois Department of Transportation v. Environmental Protection Agency, 9 PCB 263 (1973), the Agency in a motion to dismiss a variance petition to allow the use of broken concrete and quarry stone in the control of erosion stated, "the use of broken concrete and quarry stone to prevent erosion is a sound land conservation practice; fulfills the purpose of Title V of the Environmental Protection Act; and that the materials so used do not fall within the definition of refuse as it appears in the Act." The Board agreed. The Board still agrees. In the present case the wood pallets and the foundry sand came from Respondent's own activity which is exempt from permit requirements under Section 21(e) of the Act, although Section 21(b) of the Act, referring to open dumping, may be applicable. The remainder

of the filled area is dirt, concrete and rock. If the material is placed with sufficient dirt so that there are no interstices to harbor rodents or other animals that might serve as vectors or to serve as an aquifer transmitting leachate and further, if the material is in such location that the aesthetic value of the site is not unreasonably degraded then there is minimum potential for environmental harm. The materials are so used in this case and do not fall within the definition of refuse as it appears in the Act.

Mr. Zeitlin dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 22<sup>ND</sup> day of July, 1976 by a vote of 4-1.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board