

ILLINOIS POLLUTION CONTROL BOARD
February 5, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 80-123
)
PODNEY ENGSTROM,)
)
Respondent.)

MARY JO MURRAY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

KLEIN, STODDARD & BUCK, ATTORNEYS AT LAW (MR. JAMES R. BUCK, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the June 25, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On October 31, 1980, the Agency filed a Motion for Leave to File Amended Complaint Instanter and the Amended Complaint. Count I of the Amended Complaint alleged that, from January 16, 1975 until December 31, 1979, the Respondent operated a sanitary landfill in violation of a condition in its Operating Permit No. 1974-16-OP by submitting only one quarterly water monitoring report in violation of Rules 301, 302, and 317 of Chapter 7: Solid Waste Regulations ("Chapter 7") and Sections 21(b) and 21(e) of the Illinois Environmental Protection Act ("Act"). Count I also alleged that the failure to submit the requisite water monitoring reports from January 1, 1980 until October 31, 1980 violated Rules 301, 302, and 317 of Chapter 7 and Sections 21(a) and 21(d) of the Act [i.e., effective January 1, 1980, Section 21(a) of the Act replaced Section 21(b), and Section 21(d) of the Act superseded Section 21(e)].

Count II alleged that, from February 21, 1978 until December 31, 1979, the Respondent failed to properly collect all litter from the sanitary landfill site at the end of each working day in violation of Rules 301 and 306 of Chapter 7 and Section 21(b) of the Act. Count II also alleged that this failure to properly collect litter from January 1, 1980 until October 31, 1980 violated Rules 301 and 306 of Chapter 7 and Section 21(a) of the Act.

No members of the public were present at a hearing which was held on November 3, 1980. On December 26, 1980, the parties filed a Stipulation and Proposal for Settlement.* On January 2, 1981, the Agency filed a Motion for Leave to File Corrections of Clerical Errors in the Stipulation and Proposal for Settlement. The Board hereby grants this motion.

The parties have stipulated that "from at least April 30, 1974 until his death on February 13, 1977, Elmer Engstrom owned in trust and exercised control over a parcel of real property ("site") known as DeKalb County Landfill consisting of 38 acres located south of Cortland, Illinois and east of Somonauk Road" in DeKalb County, Illinois. (Stip. 1-2). However, "since February 13, 1974, the site has been owned in trust by Lois Engstrom and Rodney Engstrom". (Stip. 3). The parties have agreed that "Lois Engstrom exercises no control over the site". (Stip. 3).

It is also stipulated that, from January, 1975 until April, 1980, Rodney Engstrom failed to submit the necessary water monitoring data on a quarterly basis to the Agency in violation of a condition in Operating Permit No. 1974-16-OP, Rules 301, 302, and 317 of Chapter 7, and Sections 21(a) and 21(d) [formerly Sections 21(b) and 21(e)] of the Act. (Stip. 2). Additionally, the Respondent has stipulated that, on specified dates between February 21, 1978 and June 5, 1980, litter was improperly allowed to remain at the sanitary landfill. (Stip. 3). At the hearing, the Respondent's attorney indicated that Mr. Engstrom is currently in compliance with the litter clean-up provisions of the Board's Solid Waste Regulations and the Act (i.e., no papers are blowing around the site, etc.). (R. 7; 17).

The proposed settlement agreement provides that Rodney Engstrom shall: (1) submit water monitoring data to the Agency on a quarterly basis (i.e., the water reports for each quarter shall be submitted no later than January 15, April 15, July 15, and October 15); (2) comply with the litter and daily, intermediate, and final cover requirements of Chapter 7; and (3) pay a stipulated penalty of \$3,000.00 in twenty equal monthly installments of \$150.00 each.

In evaluating this enforcement action and the proposed settlement agreement, 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. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

*Although the settlement agreement was not signed at the time of the hearing, the substance of the Stipulation filed on December 26, 1980 was presented. The Board finds that Procedural Rule 331 has been substantially complied with.

The Board finds that the Respondent, Mr. Rodney Engstrom, has violated Rules 301, 302, and 317 of Chapter 7: Solid Waste Regulations and Sections 21(a) and 21(d) [formerly Sections 21(b) and 21(e)] of the Act. The stipulated penalty of \$3,000.00 in twenty equal monthly installments of \$150.00 each is hereby assessed 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, Mr. Rodney Engstrom, has violated Rules 301, 302, and 317 of Chapter 7: Solid Waste Regulations and Sections 21(a) and 21(d) [formerly Sections 21(b) and 21(e)] of the Illinois Environmental Protection Act.

2. The Respondent shall pay a stipulated penalty of \$3,000.00 . This penalty shall be paid in 20 equal monthly installments of \$150.00 each. The first payment shall become due and payable within 35 days of the date of this Order. Each subsequent monthly payment shall be due on the same date of the month as the first payment. Should a monthly payment not be paid when due, the remaining amount owed shall become immediately due and payable. The Respondent shall, by certified check or money order payable to the State of Illinois, send all the requisite payments to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 26, 1980 which is incorporated by reference as if fully set forth herein.

4. The Agency's Motion for Leave to File Corrections of Clerical Errors in the Stipulation and Proposal for Settlement is hereby granted.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 5th day of February, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board