

ILLINOIS POLLUTION CONTROL BOARD
September 6, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 72-501
)
 VILLAGE OF IPAVA,)
)
 Respondent.)

Larry E. Eaton, Assistant Attorney General, on behalf of
Complainant;
George P. Proctor, on behalf of Respondent.

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

On February 22, 1973, the Agency filed its amended complaint against Respondent, Village of Ipava, the operator of a landfill facility in Fulton County, Illinois. In its amended complaint, the agency alleges the following violations:

1. Violation of Section 21 (e) of the Environmental Protection Act in that Respondent allegedly operated its afore-said facility without a permit issued by the Agency.
2. Violation of Section 21 (a) of the Act in that Respondent allegedly caused or allowed open dumping of garbage at said facility.
3. Violation of Section 21 (b) of the Act in that Respondent allegedly caused or allowed open dumping of refuse at said facility.
4. Violation of Section 9 (c) of the Act in that Respondent allegedly caused or allowed the open burning of refuse at said facility.
5. Violation of Rule 3.04 of Rules for Refuse Disposal Sites and Facilities in that Respondent allegedly caused or allowed open dumping of refuse at said facility.
6. Violation of Rule 3.05 of the Rules in that Respondent allegedly caused or allowed open burning at said facility.
7. Violation of Rule 5.06 of the Rules in that Respondent allegedly failed to properly spread and compact refuse admitted to said facility.

8. Violation of Rule 5.07 (a) of the Rules in that Respondent allegedly failed to provide proper daily cover at said facility.

9. Violation of Rule 5.03 of the Rules in that Respondent allegedly failed to confine its refuse disposal operations to the smallest practicable area.

10. Violation of Rule 5.12 (b) of the Rules in that Respondent caused or allowed or failed to prohibit feeding or grazing of cattle, farm or domestic animals at said facility.

On July 23, 1973, a hearing was held on the cause. At that hearing, Mr. David Toberman, an Agency technician, testified that he inspected Respondent's facility on twelve separate occasions between October 27, 1971 and July 9, 1973 (R.10). Mr. Toberman stated that on numerous occasions (R.12,20,22,29) he observed the failure of Respondent to spread, compact and cover the refuse and garbage at its facility. Mr. Toberman further testified that on several occasions he observed open burning of refuse and garbage (R.12,21,32,39). Mr. Toberman stated that he observed many of the same items exposed as he inspected from time to time (R.21,29,30) and that on at least two visits he observed cattle feeding or grazing in the garbage area (R.39,47).

Respondent has never applied for a permit from the Agency to operate its facility (R.10). As of May 22, 1973, Respondent's site had been properly spread and compacted and final cover had been applied over the entire facility (R.51). The facility has been closed and planted and vegetation has appeared thereon (R.53).

Mr. Dave L. Beck, an Agency sanitary inspector visited Respondent's facility on March 24, 1972, and testified that he observed many of the same violations as did Mr. Toberman - failure to spread, compact and cover, smoldering garbage, presence of cattle.

Mr. Raymond T. Engel, President of the Village of Ipava for the past fifteen years, testified on behalf of Respondent. Mr. Engel stated that the facility was located on land leased from one Clio Branson and that the site ceased operation on November 1, 1972 (R.6,7). Mr. Engel testified that the testimony of the Agency witnesses regarding their observation of violations was substantially true (R.94,94).

Mr. Engel stated that Respondent made a standard practice of open burning its garbage and refuse "because we didn't have enough landfill site to actually cover everything. Any by burning the waste, cardboards and papers, it didn't take as much to cover," (R.82). Finally, Mr. Engel estimated that daily cover was applied only half the time (R.89).

This Board is satisfied, from the above, that Complainant has proven the allegations of its complaint. The Agency's investigations were numerous and thorough and Respondent has, in effect, admitted to most of the violations alleged. Although the Board has sympathy for the plight of Respondent, a small village with limited resources, we cannot allow continuous violations of the sort detailed herein to go unchecked, and a penalty will, therefore, be assessed.

Respondent's lease on the property in question has expired and Respondent has, hopefully, solved its problem by hauling its garbage and refuse to the county landfill in nearby Cuba, Illinois.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that Respondent shall:

1. Cease and desist from the violations found in this opinion.
2. Receive a permit from the Agency prior to resuming operation of the instant facility or operating a new disposal facility.
3. Within 35 days from the date of this Order pay to the State of Illinois the sum of \$100.00. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

Mr. Odell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 6th day of September, 1973, by a vote of 3 to 0.

Christan L. Moffett

