

ILLINOIS POLLUTION CONTROL BOARD
September 26, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 72-171
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 MEYER JACOBS, OSCAR HOKIN, AND)
 MADISON PARK SHOPPING CENTER, INC.)
)

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is an enforcement action wherein the complaint alleged that the respondents owned and operated a solid waste disposal facility located in the rear of the Madison Park Shopping Center in Peoria, Illinois, without a permit issued by the Agency, in violation of Section 21(e) of the Environmental Protection Act. The complaint further alleged that on numerous specified dates the respondents committed the following violations:

1. Caused or allowed open dumping, in violation of Section 21(a) and 21(b) of the Act and Rule 3.04 of the Rules and Regulations for Refuse Disposal Sites and Facilities;
2. Failed to provide fencing, in violation of Rule 4.03 (a) of the Rules;
3. Failed to supervise the unloading of refuse, in violation of Rule 5.04;
4. Failed to provide equipment, in violation of Rule 5.05;
5. Failed to properly spread and compact refuse, in violation of Rule 5.06;
6. Failed to provide proper daily cover, in violation of Rule 5.07(a);

7. Failed to provide adequate vector control, in violation of Rule 5.09.

Hearing was held on June 21, 1972. On September 11, 1972, the parties filed with the Board a Stipulation and proposal for settlement which includes the following:

The dumping was caused by trespassers who, intermittently for more than three years, have created litter along the crest and slope of the hillside which travels downward behind the shopping center. From time to time the respondents have used tractors to cover over the debris with dirt. They have hired a full time person working from 8:00 a.m. to 5:00 p.m. to police the area, to prohibit trespassers from dumping and to supervise the unloading of dirt to cover the refuse. They also had a local pest control company provide vector control.

In the past the respondents failed to provide fencing because the terrain did not lend itself for the erection of a fence and also the erection of a fence at the east and west ends of the shopping center buildings was officially discouraged by the local sheriff and fire department. The respondents have agreed to cease and desist from the alleged violations and will erect a fence on the brow of the hill to prevent the dumping. They agree to obtain dirt to completely cover the site and also to continue rodent control procedures.

It is further agreed that the Madison Park Businessmen's Association, Inc. shall pay as civil damages \$250 for the violations but that such payment shall not be levied until November 5, 1972 and upon the erection of the fence, if completed prior to that date, the civil damages penalty shall abate in toto. Also, the Businessmen's Association shall pay \$250 toward the cost of these proceedings but that sum shall not abate for any reason. It is stipulated that all other respondents herein be dismissed.


The Board finds that the proposed settlement is generally reasonable under the circumstances. We would be more satisfied with a slightly higher penalty in this case but we will not reject the settlement for that reason. Since the refuse is located on the slope we have some questions as to whether the cover material will be able to get compacted properly and also whether it will tend to wash down the hillside. We would urge the Agency to supervise closely.

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

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ORDER

1. All respondents shall cease and desist from all alleged violations of the Act and Rules.
2. The respondents shall remedy the situation in conformity with the terms of the Stipulation, the Act and the Rules.
3. The Madison Park Businessmen's Association, Inc. shall pay to the State of Illinois by October 15, 1972 the sum of \$250 as a penalty for the violations found in this proceeding. 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 Drive, Springfield, Illinois 62706.
4. The Madison Park Businessmen's Association, Inc. shall pay as additional civil damages \$250 for the violations but such penalty shall not be levied until November 5, 1972 and upon the erection of the fence (as set forth in the Stipulation), if completed prior to that date, this penalty shall abate in toto.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the 26th day of September, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board