

ILLINOIS POLLUTION CONTROL BOARD  
June 7, 1973

ENVIRONMENTAL PROTECTION AGENCY )  
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 v. ) PCB 73-59  
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 METRO DISPOSAL SYSTEMS, INC. )

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

This is an enforcement action involving numerous alleged violations of the Act and the Rules and Regulations for Refuse Disposal Sites and Facilities. Hearing was held on March 28, 1973 at which time the defendant did not appear even though proper notice was given. The only evidence in the record, therefore, is from the Agency. The site is located near Fairmont in St. Clair County.

The testimony shows that portions of the landfill were being operated without an Agency permit. We find that to be a violation of Section 21(e) of the Act.

It is alleged that Metro deposited contaminants on the land in such place and manner so as to create a water pollution hazard, in violation of Section 12(d) of the Act. Water samples taken at the site show high levels of pH, sodium, iron and lead. One inspector stated that he believed it was sodium hydroxide that was being dumped. (R.17) The inspectors observed many instances of leachate on the site and also flowing off into a drainage ditch and eventually to the Mississippi River. They also observed a yellow paint-like liquid, paper pulp, scum and brown bottle washing liquid in standing water on the site. We find that these violations of Section 12(d) occurred on July 21, and July 22, 1971, May 4, July 19, July 25, December 7, December 15, December 21, and December 22, 1972.

It is alleged that Metro failed to provide daily cover in violation of Rule 5.07(a) of the Rules. The inspectors testified that on the dates in question the cover was either too thin or too sandy or non-existent altogether.

We find that the daily cover violations occurred on July 21, July 22, October 13, October 18, October 19, October 20, October 22, October 26, November 3, November 8, November 19, November 30, December 9, December 10, December 13, December 17 and December 29, 1971. January 31, February 1, March 14, March 15, May 4, June 8, July 19, July 25, July 26, October 17, December 7 and December 21, 1972.

It is also alleged that Metro failed to provide final cover since October 13, 1971, in violation of Rule 5.07 (b). We find that to be true but only for those area of the landfill which had been filled and not used any more. The other areas were treated as daily cover violations.

It is alleged that Metro caused or allowed the depositng of liquids or hazardous materials at the site without written approval from the Agency, in violation of Rule 5.08. We find that liquids such as yellow paint and brown bottle washing fluid were deposited without written approval on July 21, July 22, December 29, 1971, May 4, July 19, July 26, December 7, December 15, December 21 and December 22, 1972, in violation of Rule 5.08.

There are also allegations of open dumping of garbage and refuse under Sections 21(a) and 21(b) of the Act respectively and Rule 3.04 of the Rules. Section 3(h) of the Act defines open dumping as "the consolidation of refuse from one or more source at a central disposal site that does not meet the requirements of a sanitary landfill." Section 3(1) of the Act provides that in order for a site to be a sanitary landfill the refuse must, among other things, be properly covered. Consequently, wherever we would find a violation for failure to cover we would also be able to find a violation for open dumping. We will not, however, find two separate violations for the same conduct. Since we have already found the violations for failure to cover we will not find violations for open dumping also.

This enforcement case was filed by the Agency on February 9, 1973. Yet the record clearly shows violation of the height limits of the permit as long ago as October 4, 1971 (R. 27-29). Since on this date Metro Disposal Systems, Inc. was at least nine feet over its allowed height limit, the Agency should have promptly filed this case then and not 16 months later. The landfill is now 19 feet over the permitted level (R. 32, 39) and a situation has occurred which might have been held to a lesser violation had prompter action been taken.

The record is replete with testimony of warnings by Agency personnel to Metro that landfilling was occurring in an area where no permit had been issued (R. 43, 45, 46, 47, 50). Because of the repeated and blatant violations we revoke the permit at the site and order it closed and final cover applied within 90 days.

Under the circumstances and in the absence of any evidence in mitigation we will assess a penalty of \$2,500 for the violations we have found.

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

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ORDER

1. The permit to operate a landfill at this site is revoked.
2. Metro Disposal Systems, Inc. shall apply final cover and close the site within 90 days from the date of this opinion.
3. Metro Disposal Systems, Inc. shall cease and desist from violating the rules and regulations regarding refuse disposal.
4. Metro Disposal Systems, Inc. shall pay to the State of Illinois by July 15, 1973 the sum of \$2,500 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.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 7<sup>th</sup> day of June, 1973 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board