

ILLINOIS POLLUTION CONTROL BOARD
September 12, 1972

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 72-1
)
C & S MOTOR SERVICE, INC., an)
Illinois Corporation,)
)
 Respondent.)

Lee A. Campbell, Assistant Attorney General for the EPA
Clayton Mikelson, Pro Se

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

The Environmental Protection Agency filed its complaint alleging that Respondent C & S Motor Service, Inc. had committed numerous violations of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities in the operation of a site at Palos Hills, Illinois. It was charged that Respondent for the period of about one year in 1971 and 1972 had operated a refuse disposal site without a permit and without adequate fencing or a gate and was guilty of open dumping of refuse, failure to confine dumping of refuse to the smallest practical area, failure to have sufficient equipment on the site, failure to spread and compact, failure to cover the refuse on a daily basis, and the deposition of refuse in standing water. Testimony for the Complainant was presented by an EPA Sanitarian who had visited the site on thirteen dates from April 22, 1971 to June 14, 1972. Respondent's evidence was presented by Clayton Mikelson, owner and President of C & S Motor Service, Inc.

Respondent is not in the refuse disposal business but operates 25 dump trucks in the business of moving earth for contractors and doing some grading and excavating. As a part of its occupation Respondent does stockpile dirt on its premises for later transfer to an area in need of landscaping. The area used by Respondent for this purpose was only about 1/4 acre. A 20 acre landfill had been operated on adjoining property by other persons. There was no fence between the two properties and occasionally members of the public would mistakenly drive into Respondent's property to deposit debris.

Most of the debris on Respondent's land, however, was brought there by its own trucks. Some of it was in dirt to be stockpiled. Other debris was included in "heavy fill" which Respondent used to

build up a low-lying area and eliminate an insect breeding pond. Photographs of Respondent's property taken on several dates in 1971 and 1972 clearly showed debris consisting of rusty metal cans, wooden boards, broken wooden crates, rusty pipe, broken tile, broken concrete, barrels, broken window screens, a metal cabinet and a mattress jumbled in a heap with dirt and brush. Some of the debris was located in a pool of standing water and oil slicks appear on the water.

Respondent never applied for a permit nor did it fence the area since there was no intention to operate a public landfill. The police were instructed to patrol the property regularly to apprehend trespassers. Mr. Mikelson had the mistaken impression that the dumping was legal since it did not include garbage. The EPA was somewhat slow in correcting this idea. On February 28, 1972 Mikelson wrote to the EPA stating:

"We are in the dump truck and excavating business and have no need to dispose of refuse. Refuse to us is household garbage. We do, at times, stockpile black dirt and fill from some of our jobs and also dump heavy fill in the low part of the property. Heavy fill being broken asphalt, concrete curb, concrete pavement, rock and heavy wood. None of which has food value for rodents or is combustible."

Over five months later on August 2 when the hearing was held the EPA had not yet answered the letter.

On April 28, 1972 Mr. Mikelson was told orally by an EPA Representative that the definition of refuse included material of the type he had been depositing on the property. When inspected twelve days later the site had been cleaned up, covered and closed to further dumping. The pond area was filled with clay dirt. Some of the area has now received its final cover of dirt. The Record indicates that Respondent intends to sell the property.


Respondent's mistaken interpretation of the law of course cannot excuse the violations. We find that Respondent did operate a landfill without a permit, cause open dumping, fail to spread and compact, fail to cover on a daily basis, and did deposit debris in standing water. The violations were not gross and Respondent moved rapidly into compliance when its mistaken interpretations were corrected. Mr. Mikelson's attitude indicates that there will be no future violations and we believe that a penalty of \$250.00 is sufficient along with an order to apply final cover and cease and desist the violations.

ORDER

It is ordered that:

- (1) Respondent cease and desist said violations of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities.
- (2) Respondent apply final cover to the site on or before October 31, 1972.
- (3) Respondent shall pay to the State of Illinois on or before October 31, 1972 the sum of \$250.00 as a penalty for 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 EPA, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 12th day of September, 1972 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board