

The site in question has been operated as a refuse disposal site since 1964. Part of the 4-acre area contains Mrs. White's trailer home, as well as the 2-2 1/2-acre refuse disposal site. Mrs. White has restricted dumping refuse at the site so as to exclude domestic garbage (R.27). Until October, 1971, the Airtex Company had been depositing milo-maize, an organic cleaning and floor covering compound, and steel grindings at the White dump (R.11-12, 152). Earlier in 1971, Mrs. White had stopped autos from being left on her premises and had had the ones there cut up and sold for scrap (R.12). In conjunction with the disposal site, Mrs. White has also conducted a salvage operation; by raking through the metal loads received from Airtex, she extracted enough material to make sale periodically worthwhile (R.12-14). Since June, 1970, she has owned and had a D-4 Caterpillar on her property (R.17). At certain times the caterpillar has been inoperative, though it has been used to create compaction on the ramp, but not on the actual fill face (R.66, 80, 98).

Mrs. White admitted, and a neighbor and all the Agency witnesses confirmed, that an underground fire has existed on the premises for approximately five years (R.22, 40, 48, 75, 104, 119). Several photographs admitted into evidence corroborated this testimony (Ex. 13, 14). This, we find, constitutes open burning in contravention of Section 9(c) of the Act and of Rule 5.12(d).

The evidence established that refuse is most often delivered to the dump in a pickup truck (R.60-64). Depending on the nature of the refuse, it is deposited either on the "ramp" or on the face of the fill (R.35, 61). An Agency investigator who made several visits, the last being January 26, 1971, testified that the ramp area was compacted and covered with sawdust, but that the face of the fill showed no compaction at all (R.98). Another Agency investigator indicated that on his visit on September 22, 1971, the face of the fill showed no evidence of earthen cover or compaction (R.116-117). We find that respondent has caused or allowed the open dumping of refuse in violation of Rule 5.04 and Section 21(b) of the Act, on January 26, and September 22, 1971, and to have violated Rule 5.06 relating to spreading and compacting of refuse and Rule 5.07 relating to cover. Respondent contends that she is conducting salvaging operations, thereby negating the offense of open dumping and relieving her of the obligation of covering. The State Rules are meant to encourage salvaging, but the operator is obliged to cover once salvaging is completed. Such was not the case here, since no covering of the fill ever occurred.

On the other alleged violations, Mrs. White herself admitted that she had not made arrangements for fire protection services in violation of Rule 4.04 (R.24). Nor has she confined the refuse to

the smallest practical area, thereby violating Rule 5.03 (R.36). In addition, the evidence is conclusive that the cumping of steel grindings from the Airtex Company is creating a cyanide or cyanogen compound discharge or leachate which Mrs. White has allowed, thereby causing or tending to cause water pollution in violation of Section 12(a) of the Act. The Agency established that the discharge containing cyanide could only have come from Mrs. White's premises, and that it then flowed into a neighboring pond which the owner described as "so contaminated . . . the fish all died in it". He could no longer use it as spray water for his orchard (R.45-46). In all other respects we find the evidence insufficient to support the charges alleged in the complaint.

There is no question that Mrs. White is operating this sanitary landfill site with little or no regard for laws long in existence in this State. Ordinarily, such gross violations would demand the imposition of a harsh penalty. In this case, though, we are reminded by the Agency and by the record of the impoverished condition of the respondent. Therefore, a penalty of \$100 shall be imposed.

The Board's concern, of course, is more with the proper operation of the site. Mrs. White shall not accept any more refuse at her site until the underground fire is extinguished, adequate fire protection assured, and the face of the fill given adequate cover. Nor shall she accept any more cyanide-bearing wastes from Airtex unless adequate measures are taken to protect against leachate or polluttional discharges from the landfill site.

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

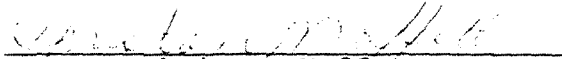
O R D E R

The Board having considered the complaint, transcript and exhibits in this proceeding HEREBY ORDERS:

1. Respondent shall cease and desist the operation of its refuse disposal dump in Wayne County until it is in full compliance with all relevant statutory provisions and regulations relating to open burning and in full compliance with all relevant statutory provisions and regulations relating to the operation of refuse disposal sites and facilities.

2. Penalty is assessed against respondent in the amount of One Hundred Dollars (\$100) for violation of Section 21(b) of the Environmental Protection Act prohibiting open dumping of refuse, for violation of Section 12(a) of the Act for allowing the discharge of any contaminants which cause or tend to cause water pollution, and for violation of the following rules of the Rules and Regulations for Refuse Disposal Sites and Facilities: Rule 3.04 prohibiting open dumping, Rule 5.06 requiring spreading and compacting of refuse, Rule 5.07(a) requiring daily and final cover of refuse, and Rule 5.12(d) prohibiting open burning, and Rule 4.04 requiring suitable arrangements for fire protection services.
3. Respondent shall not accept cyanide or cyanogen compound-bearing refuse at its site until adequate control measures, approved by the Agency, are installed to protect against polluttional discharges or leachate from the site.
4. Respondent shall extinguish the underground fire on the premises as soon as possible using all available means necessary.
5. If the Respondent should decide to cease operation on the site, she shall comply with Rule 5.07(b) of the Rules and Regulations for Refuse Disposal Sites and Facilities requiring two feet of final cover within six months of the final placement of refuse.

I, Christan Moffett, Acting Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this 7 day of December, 1971.



Christan Moffett,
Acting Clerk