

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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v.) #72-344
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W. G. BEST HOMES CORPORATION)

William C. Bowen, Assistant Attorney General, for the Environmental Protection Agency

F. Ronald Ealy, for W. G. Best Homes Corporation

Opinion of the Board (by Mr. Currie):

W. G. Best Homes Corporation ("Respondent") is charged by the Environmental Protection Agency ("Agency") with numerous violations of the Environmental Protection Act (Ch. 111 1/2, §§ 1001 et seq., Ill. Rev. Stat., 1971), and the Rules for Refuse Disposal Sites and Facilities ("Rules") on eleven separate dates at its Effingham County refuse disposal site. Specifically, Respondent is accused of committing all of the following violations on August 12, 1970; August 3, 1971; September 27 and 28, 1971; November 10 and 11, 1971; January 11 and 12, 1972; March 21 and 22, 1972; and June 12, 1972: open dumping of refuse, failure to confine dumping to the smallest practicable area, failure to provide sufficient equipment in operational condition to permit operation according to the approved plan, failure to properly spread and compact the refuse, failure to provide daily cover, causing or allowing the deposition of refuse in standing water, and the disposal of refuse at a site or facility which does not meet the requirements of the Environmental Protection Act (hereinafter called the "Act") and the Rules. With very few exceptions, we find all of the allegations proved on all of the dates cited in the complaint, except August 12, 1970 for which no evidence was offered.

Respondent makes modular homes, and uses a portion of its property to dispose of construction materials and refuse. Sometime in 1969, Respondent either donated or sold some fill from the area behind its plant to a new industry just moving into the Effingham area, and began to dump its refuse into the pit that had been created (R. 204). Rain and surface waters ran into the hole, which measured some 100 feet wide by 300-500 feet long by 15-20 feet deep (R. 26-27, 156, 172, 205), and Respondent apparently continued to dump its refuse both on the land and in the water-filled pit. The Respondent had

a permit to operate a landfill site which was issued in 1969 by the Illinois Department of Public Health (R. 29), but was specifically conditioned upon Respondent's observation of and compliance with the applicable rules and regulations for such operations, and the de-watering of the pit (R. 29-31).

Oral testimony, written inspection reports and photographs all dramatically attested to the numerous violations which occurred at this site. Refuse, generally consisting of wooden blocks, construction scrap materials, aluminum items, window frames, and even a truck body, was observed in an unspread, uncompacted and uncovered condition, and even floating in the pit, on August 3, 1971 (R. 33-35); September 27 and 28, 1971 (R. 41-46, 54); November 10 and 11, 1971 (R. 62-68); January 11 and 12, 1972 (R. 75-78, 172-177); March 21 and 22, 1972 (R. 83-91, 155-165); and June 12, 1972 (R. 178-180). On two separate occasions, the same items observed in an uncovered condition on one visit by Agency inspectors were observed in the same condition nearly two months later, although somewhat more weather-beaten (R. 50, 68); equipment capable of properly spreading, compacting or covering the materials was not seen at the site except on November 11, 1971, and on March 22, 1972, when a caterpillar tractor was observed pushing refuse into the water (R. 84, EPA Ex. 5d). On one visit, Agency representatives were informed that the site had not been covered in at least six days (R. 86), and that a contractor had been retained to apply cover only on Tuesdays and Thursdays (R. 90-91). Respondent's Production Manager confirmed this arrangement (R. 216), and when asked if he was aware of the requirement to apply daily cover, replied: "I was aware of it, but under the circumstances of cost. . . we tried to do our best to keep it pushed in as often as possible." (R. 217). And Respondent's President admitted that the site was not covered on a daily basis (R. 270-271).

Respondent's representative testified that on March 5, 1970 Respondent had purchased a pump to use in de-watering the pit (R. 205-206), and that it was used to periodically pump water out of the pit and onto nearby cornfields through the following August (R. 206-210). Agency Sanitarian Badding said that on his September 27, 1971 visit he took a sample of the water in the pit to determine whether it was so contaminated as to warrant treatment before being pumped and discharged onto nearby farmland (R. 55-58). The subsequent report noted that a black, odorous liquid with anaerobic action had been observed in the pit along with refuse consisting of wood, fiber board, paper and other building materials; that the pumped liquid was going to an unnamed tributary of the Little Wabash River; and that

the sides of the pit were black where the water level had dropped (EPA Ex. 7). Readings noted on the sample report were: 430 COD; 510 hardness; 390 alkalinity; 6.8 pH; 10 Chloride; and 956 TS/EC (total solids as measured by electrical conductivity) indicating that the water in the pit was grossly contaminated. Mr. Badding stated that he "suggested" that pumping cease until the dumping problem could be alleviated (R. 133), and Respondent claims that it immediately removed the pump pursuant to what it construed Mr. Badding's "recommendation" to be (R. 210). The pump had, until that point, been used to de-water the pit, and to assist in extinguishing an underground fire at the site (R. 98-99, 208-209, 228-231). Respondent sought the results of the sample (Resp. Ex. 8), but apparently was never told. As the Production Manager said, "You couldn't pump water out so , we continued to dump and fill." (R. 212).

Testimony also revealed that the landfill site is now completely covered (R. 147, 237). The President and General Manager of Respondent testified that although the site still had a useful life-expectancy of at least four to six months, he "couldn't find anyway" to comply with the applicable regulations, and had taken the initiative to order the site closed by October 1, 1972 (R. 256). Respondent's action in covering and closing the site saves us the trouble of ordering that such steps be taken, but we find this action to have been long overdue.

Respondent has knowingly, willfully and deliberately violated a variety of laws and regulations applicable to landfill sites; it has dumped its waste materials indiscriminately onto the land and into standing water in violation of the law and in direct disregard of the terms of its permit; it has knowingly, willfully and deliberately pumped badly contaminated water onto nearby farmlands and in mitigation offers the feeble excuse that it simply "couldn't find anyway" to comply. One of the ways it could have tried was simply to stop dumping refuse in standing water, not to mention contracting to have the refuse that was dumped properly spread, compacted and covered on a daily basis as the law requires it to be.

For the violations we have found herein, we will require the Respondent to pay a penalty to the State of Illinois in the amount of \$3,000, which amount could easily have been a great deal more had the Respondent not already decided to close the site. We will also order Respondent not to reopen its landfill facilities until the proper permits

have first been obtained and unless it then operates the site in full compliance with all applicable laws and regulations.

ORDER

1. Respondent shall pay to the State of Illinois within thirty-five (35) days from the date of receipt hereof, the sum of \$3,000.00 as a penalty for the violations found herein. Payment shall be made by certified check or money order payable to the State of Illinois, and shall be sent to "Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706."
2. Respondent shall close its landfill site until such time as it has secured the appropriate permits to reopen same from the Illinois Environmental Protection Agency, and shall forthwith and henceforth cease and desist violating the Environmental Protection Act and Rules at said site.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 21st day of November, by a vote of 5 to 0.

Christan Moffett
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