

ILLINOIS POLLUTION CONTROL BOARD

October 17, 1972

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
 v.) PCB 72-254
)
 IVY HEARNES and ARTHUR SINGLETON,)
)
 Respondents.)

Robert F. Kaucher, Assistant Attorney General, for the Environmental Protection Agency;

Harry E. Hartman for Respondent Hearnese;

No appearance for Respondent Singleton.

OPINION AND ORDER OF THE BOARD (by Mr. Parker):

This is an enforcement proceeding (Complaint filed June 22, 1972) in which Respondents are charged with open dumping violations at a landfill located near Lovejoy in Madison County. The specific violations of the Rules and Regulations for Refuse Disposal Sites and Facilities charged are: causing or allowing open dumping between August 5, 1971 and March 22, 1972 in violation of Rule 3.04, failing to confine the refuse to the smallest practical area (Rule 5.05), failing to provide proper operating equipment (Rule 5.05), failing to properly spread and compact the refuse (Rule 5.06) and to provide daily cover (Rule 5.07 (a)), failing to provide vector control (Rule 5.09), and operating without a permit in violation of Section 21 (e) of the Environmental Protection Act.

At the public hearing, held September 11, 1972, it was stipulated that the land in question was owned by Respondent Hearnese and leased to Respondent Singleton throughout the time period involved here (R.5). Although the lessee Singleton did not appear at the hearing, he was properly served with process and therefore is bound by this opinion and order.

Also, at the hearing the Respondent Hearnese consented to the relief prayed for in subparagraphs 1 (a) and 1 (b) of Paragraph B of the prayer of the Complaint. As we understand it, this consent comes close to constituting an admission of the violations charged and an agreement to cease and desist until an Agency permit may be obtained. Specifically, Respondent Hearnese has consented to

cease accepting refuse at the site without a permit, and to cease and desist from the violations complained of until and unless a compliance program should be approved by the Board.

The evidence introduced at the public hearing showed that Respondent Singleton leased the land from Respondent Hearnese for use as a hog pen (R. 60). Mrs. Hearnese, the land owner, seldom visited the site (R. 61) but was informed about two years ago that some open dumping had occurred (R. 62). Several Agency witnesses testified concerning their visits to the site on the following dates alleged in the Complaint: August 5, August 18, October 13, 19 and 20, all in 1971 (R. 20-30, 50-51), and January 25 and March 22 of 1972 (R. 44-47, 50-51). They photographed (Exhs. 1, 2) and described what they saw, viz:

"... we observed large amounts of demolition material, assorted household items, cans, bottles, a small amount of garbage, some old chairs and just assorted household trash, a few white goods such as refrigerators and stoves, and some tin objects. The site was not posted on this inspection and the site was not restricted on this inspection."

(R. 21-22)

"... the top photograph taken on August 5th shows some tin items and some demolition material which were laying there on the 5th. On the 18th when I went back, these items were almost obscured by new dumping, and you can see plastic bags, beer cans, milk cartons and things in front of the items that were photographed in the upper picture, and this would show the recent dumping on the 5th have not been spread, compacted or covered by the 18th."

(R. 27)

The Agency investigators reported essentially no changes in the condition of the refuse heaps, other than the dumping of additional material, over the August, 1971 through June, 1972 period (R. 31).

We believe the record proofs show that the violations charged in the Complaint did occur. A cease and desist order will be issued as well as an order to cover the dump. Money penalties of \$500.00 for the landfill operator, Respondent Singleton, and of \$100.00 for the land owner, Mrs. Hearnese, seems to be fully justified.

ORDER

1. Respondents shall cease and desist from causing and allowing open dumping of refuse at their landfill located near Lovejoy in Madison County.

2. Respondents shall immediately spread and compact the refuse at the landfill, and apply final cover to it, which condition shall exist until such time as the Agency may issue a permit for operation of a landfill.

3. Respondent Hearnese shall pay to the State of Illinois by November 22, 1972 the sum of \$100.00 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 EPA, 2200 Churchill Road, Springfield, Illinois, 62706.

4. Respondent Singleton shall pay to the State of Illinois by November 22, 1972 the sum of \$500.00 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 EPA, 2200 Churchill Road, Springfield, Illinois, 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 17th day of October, 1972, by a vote of 5 to 0.

