

ILLINOIS POLLUTION CONTROL BOARD  
October 31, 1972

ENVIRONMENTAL PROTECTION AGENCY, )  
  ) )  
  Complainant, )  
  )                   PCB72-265  
  ) )  
  ) )  
v.   ) )  
  ) )  
J. C. DILL,                               ) )  
  Respondent.        ) )

F. Daniel Welsch, Special Assistant Attorney General, for the Environmental Protection Agency;  
J. C. Dill, pro se.

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

This is an enforcement proceeding involving open dumping violations of Sections 21 (a), (b) and (e) of the Environmental Protection Act and Rules 3.04, 4.03, 5.03, 5.04, 5.06 and 5.07 (a) of the Rules and Regulations for Refuse Disposal Sites and Facilities. The Complaint alleges that Respondent Dill caused or allowed open dumping of garbage and other refuse on eight separate dates extending from October 28, 1971 through April 7, 1972 at a facility located near Georgetown. The specific charges include failure to make the necessary physical improvements before placing the facility in operation, failure to confine the dumping to the smallest practical area, failure to provide portable fencing and to police the area to collect scattered material, failure to properly spread and compact the refuse, failure to provide daily cover, and operation without a permit. The Complaint also charges Respondent with violation of a previous Order of this Board entered August 13, 1971 (EPA v. J. C. Dill, PCB71-42).

At a public hearing, held September 27, 1972, Respondent stipulated that he owned and operated the facility and admitted all of the violations charged except violation of the previous Board Order (R. 3-5). Photographs were placed in the record (Group Exhibit A, B, C and D) showing the dumping site -- large open piles of garbage and miscellaneous debris including broken cardboard boxes and wooden crates, tires, oil drums, stoves and other large metal remnants.

The only witnesses who appeared at the hearing were the Respondent Dill and several of his neighbors. They testified that the violations occurred because of repeated breakdowns of a bulldozer on the site (R. 6-7, 9, 13, 17-18), that the

blowing litter did not bother anyone else (R. 8, 9), that Respondent had used his best efforts to provide cover (R. 8, 13, 14, 19), that Respondent has recently decided to give up open dumping on the premises (R. 10, 14), and that final cover has been or will be applied to a depth of two feet using a rented bulldozer (R. 11, 14). It appears from the record that the Respondent was in the refuse collecting business, and that only refuse from the Respondent's truck was dumped on the premises (R. 10). Apparently, there were no dumping activities by outsiders (R. 10). The record shows that since deciding to close the premises, Respondent has been paying to dump his refuse at a Danville city dump (R. 10).

We find that the occurrences described in the Complaint did take place on or about the dates alleged, and conclude that Respondent has violated the Act and the Rules as charged in the Complaint. A cease and desist order will be entered, along with a final cover requirement.

We find also that Respondent has failed to comply with the earlier Order of this Board entered August 13, 1971. That Order dealt with open dumping and open burning violations at the same site. The accompanying Opinion stated in part:

"We find violations with respect to open burning, lack of a lockable gate and an all weather road, and failure to daily and finally cover refuse. We shall order that no further infractions occur and in consideration of respondent's economic and family problems assess a modest \$200 penalty. Although we have assessed this nominal penalty in the face of the repeated warnings and visits by Agency representatives we assure Mr. Dill that continued operation of his landfill in violation of the law will result in greatly increased penalties."

While the record presently before us does not show continuing open burning violations or failure to provide a lockable gate and an all weather road, all as required by our previous Order, it does show that Respondent failed to daily and finally cover the refuse as required by that Order.

Once again, however, there appear to be some extenuating circumstances. We note the bulldozer disrepair problem, the "best efforts" testimony, the fact that Respondent's family is apparently not any smaller than previously (R. 12), the fact that Respondent has finally agreed to discontinue the dumping entirely, and the fact that Respondent now has the added burden of paying for dumping privileges at the city dump. In view especially of the last mentioned factors, the decision to close the dump entirely and the added financial burden of using the City facilities, we decline to assess a money penalty.

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

ORDER

1. Respondent shall immediately cease and desist from causing or allowing open dumping of garbage and other refuse at its facility located near Georgetown.

2. Respondent shall immediately spread and compact all refuse presently at the facility, and apply final cover to it.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on the 31<sup>st</sup> day of October, 1972, by a vote of 5 to 0.

Christan L. Moffett

