

ILLINOIS POLLUTION CONTROL BOARD  
April 16, 1981

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-186  
 )  
ERNEST E. HARTMAN, )  
 )  
Respondent. )

MR. VINCENT MORETH, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. NOLAN C. CRAVER, JR., MIDDLETON & CRAVER, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by D. Satchell):

This matter comes before the Board upon a complaint filed July 20, 1978 by the Illinois Environmental Protection Agency (Agency) naming as respondent Ernest E. Hartman (Hartman). The complaint alleges violation of Section 21 of the Environmental Protection Act (Act) and the final cover provisions of Rule 305(c) of Chapter 7: Solid Waste. A public hearing was held April 28, 1980 in Urbana. The Agency presented testimony and exhibits. A second hearing was held on August 28, 1980, at which time the parties presented a stipulation and proposal for settlement. The Board has received no public comments and there is no indication of public participation in either hearing.

Hartman owns a site within the E 1/2 of the SE 1/4 of Section 22, T 19 N, R 10 E of the 3rd P.M., Champaign County. At one time Hartman operated a six acre solid waste disposal site at this location. Hartman contends that operations ceased on or about July 15, 1974; the Agency contends that operations continued into August of that year. The parties have stipulated that the facility began operation in 1966 and "was terminated by August, 1974 " (R 131). Chapter 7 became effective July 27, 1973. Hartman never had an Agency permit for the site.

Sections 21(a) and 21(b) of the Act prohibit open dumping. Rule 305(c) requires the placement of two feet of final cover over a landfill within 60 days of placement of refuse in the final lift, unless otherwise authorized by Agency permit. The parties have stipulated that Hartman has not placed final cover on the site and that no other practice has been authorized. Exposed refuse remains on the site.

The parties have stipulated that "minimal leachate" has occurred which flows directly into the Salt Fork River. This is tributary to the Middle Fork of the Vermilion River and the Wabash River. The Board notes that final cover is intended, among other things, to prevent leachate production by reducing the flow of water through the refuse.

Hartman has admitted violation of Sections 21(a) and 21(b) of the Act and Rule 305(c) of Chapter 7. The parties have agreed to a compliance plan and a \$100 civil penalty. The compliance plan will be set forth in the Order.

In mitigation it is stipulated that Hartman has not made substantial profits as a result of his failure to comply. At one time since the site was closed Hartman became ill and incurred unforeseen medical expenses. However, Hartman received notice of non-compliance prior to this time and failed to act. As a result of the non-compliance, the site became a potential hazard to the health, general welfare and physical property of the people of the State of Illinois. The failure to comply seriously diminishes the social and economic value of the site and detracts from its suitability regarding geographic location.

Hartman has recently taken steps to bring the site into compliance. He has hired independent contractors to place and grade the final cover and to conduct any needed sampling.

The Board has required that with the description of the site Hartman record the name of the holder of record title (Rule 318). The mere description of the site is insufficient to give notice to purchasers in downstate counties where real estate is usually indexed only by the names of the grantor and grantee (Ill. Rev. Stat. 1979, ch. 115, Section 12).

The Board finds the stipulation and settlement acceptable under Procedural Rule 331. The Board finds Hartman in violation of Sections 21(a) and 21(b) of the Act and Rule 305(c) and finds that the \$100 penalty is necessary to aid enforcement of the Act. In making its decision the Board has considered the factors enumerated in Section 33(c) of the Act.

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

#### ORDER

1. Respondent Ernest E. Hartman is in violation of Section 21(a) and Section 21(b) of the Environmental Protection Act and Rule 305(c) of Chapter 7: Solid Waste.

2. Respondent shall place and grade the required final cover on or before September 1, 1980.

3. Respondent shall cease and desist further violations of Section 21 of the Act and Chapter 7.

4. Respondent shall monitor the three monitoring wells at the site, beginning after certification of closure by the Agency and continuing for three years.

5. At the monitoring wells Respondent shall monitor the following parameters: ammonia, boron, chemical oxygen demand, iron and total dissolved solids. The frequency of sampling shall be determined by the Agency.

6. Respondent shall also monitor the surface water in the Salt Fork River at two monitoring points. One point shall be upstream of the site and another point shall be downstream of the southern boundary of the site. The exact location shall be determined by Agency personnel. At each point Respondent shall monitor the following parameters: boron, iron and total dissolved solids. The frequency of sampling shall be determined by the Agency.

7. Samples shall be tested by a certified laboratory. Quarterly results shall be submitted to the Agency on the 15th day of January, April, July and October.

8. During the three year monitoring period, Respondent shall cover and control any areas on the site where leachate is found to exist.

9. Respondent shall file with the Champaign County Recorder's Office a detailed description of the site, including a plat showing the location of refuse, within forty-five days after entry of the Board's Order. The description shall include the name of the current holder of record title.

10. Within forty-five days of the date of this Order Respondent shall submit to the Agency a copy of an executed agreement entered into between Respondent and a company of Respondent's choosing which is capable of adequately performing the above referenced tests, sampling and monitoring functions.

11. Respondent will pay a civil penalty of \$100 within forty-five days of the date of this Order, by certified check or money order, payable to the State of Illinois, which is to be sent to:

State of Illinois  
Fiscal Services Division  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16<sup>th</sup> day of April, 1981 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control  
Board