

ILLINOIS POLLUTION CONTROL BOARD

February 7, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-28
)
DARREL SLAGER, d/b/a RAPID LIQUID)
WASTE AND RUBBISH REMOVAL,)
)
 Respondent.)

MS. ANNE K. MARKEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MESSRS. WILLIAM C. LATHAM AND JOHN L. PARKER, JOHN L. PARKER & ASSOCIATES, LTD., APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed on February 2, 1978 by the Environmental Protection Agency (Agency). An amended complaint was filed on March 10, 1978, substituting Darrel Slager, d/b/a/ Rapid Liquid Waste and Rubbish Removal as Respondent. The amended complaint alleges Respondent has disposed of refuse at a solid waste disposal site which fails to meet the requirements of the Environmental Protection Act (Act) and regulations thereunder in violation of Section 21(f) of the Act. Hearings were held on May 1, 1978, May 24, 1978, September 21, 1978 and November 1, 1978.

Respondent is alleged to have dumped liquid wastes at the Paxton Landfill located between 116th Street and 120th Street and Oglesby Avenue on the far south side of the City of Chicago. Paxton Landfill did have a valid operating permit issued by the Agency (R. 311, 312). The original site (Paxton No. 1) was completed in early 1976 (R. 312). However, operations proceeded into an adjacent land area that had not been included in the original permit nor was the site included in any new permit (R. 312). The new site (Paxton No. 2) did receive an operating permit in the fall of 1978, after the time period covered in the amended complaint (R. 310).

Respondent's trucks were seen disposing of liquid wastes at the Paxton No. 2 site on several occasions; these include February 28, 1977, March 1, 1977, October 14, 1977 and February 9, 1978

(R. 29, 46, 58, 65). On these dates observations of violations of the regulations were made. Refuse was not being deposited at the toe of the fill but was being spread and compacted downhill (R. 31, 60). This is not in accordance with Rule 303 of Chapter 7: Solid Waste Regulations (Chapter 7). Operational roads were in unsatisfactory condition, a violation of Rule 314 of Chapter 7 (R. 33). Liquid wastes and sludges were being disposed of at the site (R. 33). Liquid wastes are only allowed to be disposed of if authorized by permit. As Paxton No. 2 had no permit, there could be no authorization; a violation of Rule 310 of Chapter 7. On February 9, 1978 there was inadequate daily cover over a portion of the fill and there was in fact virtually no cover--a violation of Rule 305 of Chapter 7 (R. 64).

The fact that the Paxton site was operating in violation of the Act and the regulations was made known to Respondent in a letter from the Agency dated July 17, 1977 (Comp. Ex. 12).

Respondent attempted to make a defense at the hearing on the basis that "liquid" is not defined by the regulations or the Act and consequently Agency employees would be incapable of determining what a "liquid" waste would be. It is accepted practice that words that are not defined in an act or a regulation are given their plain and ordinary meaning. Webster's New Twentieth Century Dictionary, Unabridged 1976 Edition defines liquid as "a substance that, unlike a solid, flows readily, but unlike a gas, does not tend to expand indefinitely." The Board finds that there is sufficient evidence in the Agency observations and exhibits to determine that Respondent was disposing of liquid wastes.

The Board finds that there is sufficient evidence to determine that Respondent did dispose of refuse at a site which failed to meet the requirements of the Act and of regulations thereunder. Before determining what penalty should be assessed the Board must consider the factors enumerated in Section 33(c) of the Act. The character and degree of injury cannot be definitely ascertained. Liquid waste, because of its form, can spread faster than solid waste. As the components are unknown it is impossible to determine the hazard. This is precisely why special authorization is required to dispose of liquid wastes and hazardous wastes. If the components are known in advance, mixing of wastes with unfortunate results can be avoided. Certainly there is social and economic value to being able to dispose of unwanted wastes and by-products but these are diminished when there is a lack of planning for the disposal of the wastes. The site ultimately did get an Agency permit; however, whether or not these particular liquids should have been deposited there was not determined at hearing. Respondent was barred from presenting evidence of financial condition at the hearing because of Respondent's refusal to comply with the Hearing Officer's discovery order.

The Agency did supply the Respondent with the names of properly licensed landfills in the area in the Agency's letter of July 13, 1977 (Comp. Ex. 12). Technically and economically it appears compliance was feasible.

Considering all of these factors, Respondents continued disposal of liquid wastes at this site after notice of the site's violations is a blatant violation of the Act. Liquid wastes, because of their nature, are a particularly great and unknown hazard to future generations. The Board finds that a penalty of \$1000 will be assessed to aid the enforcement of the Act.

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

ORDER


It is the Order of the Pollution Control Board that:

1. Respondent, Darrel Slager, d/b/a Rapid Liquid Waste and Rubbish Removal is found to have violated Section 21(f) of the Environmental Protection Act.
2. Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$1000 which is to be sent to:

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

Mr. Werner abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 7th day of February, 1980 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board