

ILLINOIS POLLUTION CONTROL BOARD
September 15, 1982

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 81-180
)
EVERETT ALLEN, d/b/a/)
ALLEN DISPOSAL SERVICE,)
)
Respondent.)

MRS. GWENDOLYN W. KLINGLER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

MR. EVERETT ALLEN APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by I. G. Goodman):

This matter is before the Board upon a complaint filed November 10, 1981 by the Illinois Environmental Protection Agency (Agency) alleging that Everett Allen, d/b/a/ Allen Disposal Service, (Allen) is in violation of certain Board rules and regulations, Chapter 7: Solid Waste Rules and Regulations (Chapter 7) and certain sections of the Illinois Environmental Protection Act (Act) with regard to the operation of a refuse disposal operation and solid waste management sites located in Jackson County, Illinois. Hearing was held in this matter on March 26, 1982 at which a proposed Stipulation and Proposal for Settlement (Stipulation) was filed with the Board. Two citizens testified at the hearing; the Board has received no other public comment.

The proposed Stipulation recites the pertinent facts of this case as follows. Allen owns two parcels of land located near DeSoto, Illinois in Jackson County at which he operates a refuse disposal operation and solid waste management sites (hereinafter Allen No. 1 and Allen No. 2). Allen No. 1 has the following legal description:

East 1/2 of the Northwest 1/4 of the Southwest 1/4 and
East 1/2 of the Southwest 1/4 of the Northwest 1/4 of
Section 7, Township 8 South, Range 1 West, Jackson County,
Illinois.

Allen No. 2 has the following legal description:

Northeast 1/4 of the Southwest 1/4 and South 1/2 of the
Northwest 1/4 of Section 7, Township 8 South, Range 1 West,
Jackson County, Illinois.

Allen has operated a solid waste management site at both Allen No. 1 and Allen No. 2 since November, 1979 pursuant to two individual Agency operating permits. After sorting out the various statements in the Stipulation concerning the law and the facts of this case, the Board comes to the conclusion that the following violations are alleged and admitted: Allen No. 1, violation of Rule 305(a) of Chapter 7, daily cover. Allen No. 2, Rule 302, supply of cover material; Rule 303(b), spreading and cover operation; Rule 310(b), liquid waste disposal; Rule 314(f), dust and vectors. Allen No. 1 and Allen No. 2, Sections 21(a) and 21(e) of the Act and Rule 301, general violations of the Act and the Rules; Rule 305(b), intermediate cover. Some of the foregoing are redundant but not fatal to the Stipulation.

Allen alleges that he has retained an engineering firm to perform the water quality analyses for both of his landfill sites and that these tests were being performed and submitted to the Agency. The Proposal for Settlement filed pursuant to Procedural Rule 331 recites a series of actions to be taken by Allen in order to bring Allen No. 1 and Allen No. 2 into compliance with the Board's rules and regulations. These actions include submission of water monitoring reports to the Agency, maintenance of one week's supply of cover for use on the active area, immediate spreading and compaction of refuse at the toe of the fill, six inches of daily cover on all exposed refuse on active lifts, at least 12 inches of intermediate cover on all surfaces of the landfills where no additional refuse will be deposited within 60 days, refusal of liquid wastes unless permitted, institution of measures adequate to control dust and vectors, certain operating equipment and manpower agreements, and the payment of a \$3,000 penalty to aid in the enforcement of the Act. Of the two citizen witnesses, both appeared to have their problems cured by the proposed Settlement and promised cooperation by Allen and others.

The Board finds the proposed Stipulation to be a reasonable resolution of this matter. The compliance plan included in the Stipulation should correct the violations found and suitably protect the environment in the future. The Board shall therefore accept the proposed Stipulation as presented at the March 26, 1982 hearing.

This is the second time that Allen has been before this Board. Consequently, the Board notes that there have been a number of cases recently in which a Respondent with a record of prior violations has entered into a Stipulated Settlement with the Agency. This situation raises the question of whether or not the stipulated settlement practice is functioning to further the intent of the Act, particularly where the Respondent has a record of past violations.

This Opinion constitutes a finding of facts and conclusions of law of the Board in this matter.

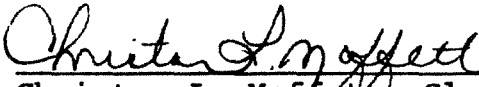
ORDER

1. Everett Allen is found in violation of Sections 21(a) and 21(e) of the Illinois Environmental Protection Act and Rules 301, 302, 303(b), 305(a) and (b), 310(b) and 314(f) of Chapter 7: Solid Waste.
2. Everett Allen shall execute the terms of the compliance plan contained in paragraphs 2 through 9 on pages 10 and 11 of the Stipulation and Proposal for Settlement filed March 26, 1982, which Stipulation and Proposal for Settlement is hereby incorporated by reference as if fully set forth herein.
3. Everett Allen shall pay a penalty of \$3,000 for the violations found in Order 1 above to be sent to:

Illinois Environmental Protection Agency
Fiscal Services
2200 Churchill Road
Springfield, IL 62702

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of September, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board