

ILLINOIS POLLUTION CONTROL BOARD
August 20, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 80-140
)
WILSON & SHIPLER, INC.,)
a Wisconsin corporation,)
)
Respondent.)

MR. DOUGLAS P. KARP, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF
OF THE COMPLAINANT.

O'NEAL, NOLL, ELLIOTT & FORBECK, S.C., ATTORNEYS AT LAW (MR. KENNETH
FORBECK, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the August 5, 1980
Complaint brought by the Illinois Environmental Protection Agency
("Agency").

Count I of the Complaint alleged that, on various specified
occasions between April 15, 1976 and August 5, 1980, Wilson &
Shipler, Inc. (the "Company") operated a solid waste management
site ("site") without developmental and operating permits from the
Agency in violation of Rules 201 and 202(a) of Chapter 7: Solid
Waste Regulations ("Chapter 7") and Section 21(d) of the Illinois
Environmental Protection Act ("Act").

Count II alleged that, from October 27, 1976 until August 5,
1980, the Respondent failed to provide the necessary final cover
over portions of the site in violation of Rule 305(c) and Section
21(a) of the Act.

Count III alleged that, on April 15, 1976, March 13, 1980, and
May 9, 1980, the Company failed to place the necessary daily cover
on exposed refuse in violation of Rule 305(a) of Chapter 7 and
Section 21(a) of the Act.

Count IV alleged that, on May 12, 1976, May 18, 1976, and
May 21, 1976 (and continuing until the filing of the Complaint),
the Respondent disposed of refuse at a site which did not meet the
requirements of the Board's Solid Waste Regulations or the Act
(i.e., on its own property) in violation of Section 21(e) of the Act.

A hearing was held on July 1, 1981 at which no members of the public were present. The parties filed a Stipulation and Proposal for Settlement on July 8, 1981.

The Company owns about 18.64 acres of land "located south of South Beloit, Illinois, immediately southwest of the intersection of Moore and Reese Streets" in Winnebago County. (Stip. 2). The Respondent, which is involved in road construction and site development, has used its property "primarily as a sand and gravel pit" and has disposed of demolition material, asphalt fragments, foundry sand, slag wastes, paper pulp, and miscellaneous refuse at the site since the acquisition of this property in 1965. (Stip. 2).

The parties have indicated that "the site and all adjoining properties are currently zoned for agricultural use by the County of Winnebago" and nearby land usage includes "a combination of residential, agricultural, timberland and special use (auto junk yard and sand and gravel pits)". (Stip. 2).

The Company has admitted "that on April 15, 1976, May 18, 1976, and May 21, 1976, approximately 300 to 350 yards of demolition debris including wood, limestone, cement and miscellaneous refuse were transported from Beloit, Wisconsin, and deposited by Respondent at the site without developmental and operating permits" from the Agency. (Stip. 3). Additionally, the Respondent has admitted that it failed to provide the requisite daily and final cover on various occasions. (Stip. 3).

Moreover, the Company has also admitted that it improperly disposed of "approximately 605 tons of paper pulp" at the site on March 13, 1980 and May 9, 1980. (Stip. 4).

The parties have stated that the Company initially filed its application for a "permit to develop and operate a solid waste management site" on November 15, 1978. (Stip. 3). This proposed landfill was originally "intended to provide a local disposal site for foundry sands and shredding refuse". (Stip. 3). However, on June 18, 1979, the Agency denied the Company's permit application because the Agency believed that the Respondent's "proposed silt liner would not sufficiently contain the leachate resulting from the foundry sands and shredding refuse". (Stip. 3-4).

After the denial of its permit application, on December 18, 1979 the Company "informed the Agency that it was no longer interested in obtaining a permit to dispose of any waste at the site". (Stip. 4). Nevertheless, the Respondent admittedly disposed of paper pulp refuse at the property on March 13, 1980 and May 9, 1980 without having the necessary Agency permits. (Stip. 4).

The proposed settlement agreement provides that the Company agrees to: (1) promptly "place and maintain two (2) feet of compacted clay soil over all areas which previously received refuse at the site"; (2) cease and desist from further violations;

(3) refrain from conducting or allowing "any refuse disposal operations at the site until and unless developmental and operating permits are acquired from the Agency", and (4) pay a stipulated penalty of \$2,500.00 . (Stip. 5-6).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondent, Wilson & Shipler, Inc., has violated Rules 201, 202(a), 305(a), and 305(c) of Chapter 7: Solid Waste Regulations and Sections 21(a), 21(d), and 21(e) of the Illinois Environmental Protection Act. The Company will be ordered to cease and desist from further violations and pay the stipulated penalty of \$2,500.00 .

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Wilson & Shipler, Inc., has violated Rules 201, 202(a), 305(a), and 305(c) of Chapter 7: Solid Waste Regulations and Sections 21(a), 21(d), and 21(e) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. On, or before, September 30, 1981, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$2,500.00 which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on July 8, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 20th day of August, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board