

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-318
)
DUDLEY D. HARVEL,)
)
Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. FRANK SCHWEITZER, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the December 5, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that the Respondent (who operates a refuse disposal and collection service) disposed of refuse at a landfill which did not meet the requirements of the Illinois Environmental Protection Act ("Act") and regulations thereunder (i.e., the Respondent allegedly deposited refuse at the Taylorville Landfill which was operated without the requisite Agency permit) from June 13, 1977 until December 5, 1977 in violation of Section 21(f) of the Act. On December 21, 1977, the Respondent filed a Motion to Dismiss the Agency's Complaint. On January 5, 1978, the Board denied the Respondent's Motion to Dismiss. A hearing was held on May 9, 1978. The parties filed a Stipulation and Proposal for Settlement on June 5, 1978.

The Respondent, Mr. Dudley D. Harvel, operates a refuse collection service in the vicinity of Taylorville, Illinois. Mr. Harvel uses a one ton truck with a 17 cubic yard refuse body in his refuse collection service. It is stipulated that Mr. Harvel is responsible for the activities conducted pursuant to his refuse collection operation. (Stipulation, p. 2).

The Taylorville Landfill is located near Taylorville, Illinois in Christian County. During inspections of the Taylorville

Landfill by the Agency, Agency inspectors have observed Mr. Harvel bring refuse to the Taylorville Landfill on June 13, 1977, June 14, 1977, June 16, 1977, August 26, 1977 and September 28, 1977. Exhibits A and B, which are attached to and expressly incorporated by reference to the Statement of Stipulated Settlement, are photographs taken by the Agency inspector John Diefenback on June 13, 1977 and June 14, 1977. (The white 17 cubic yard packer truck with red cab in each picture is the truck Mr. Harvel uses in his refuse collection operation. The truck, in each picture, was at the Taylorville Landfill the time the picture was taken). (Stipulation, p. 3). Mr. Harvel admits that, during a period beginning on June 13, 1977, and continuing to December 2, 1977, he brought refuse to the Taylorville Landfill six times each week for the ultimate purpose of disposing of the refuse. (Stipulation, p. 3). The Agency and Mr. Harvel agree that the Agency has never issued an operating permit to the operators of the Taylorville Landfill and that, from June 1, 1977 until June 5, 1978, the Taylorville Landfill has not been in general compliance with the operational requirements of the Act and Board's Solid Waste Regulations. (Stipulation, p. 3-4).

A letter was sent to Mr. Harvel from the Agency on August 9, 1977. The letter, among other things, informed Mr. Harvel that the Taylorville Landfill had never been issued an operating permit by the Agency. (See: Exhibit C which is attached to the Stipulation). An Enforcement Notice was sent by the Agency and received by Mr. Harvel on September 13, 1977. The Enforcement Notice informed Mr. Harvel that he continued to violate the Act and Board Rules by bringing refuse to the Taylorville Landfill. (See: Exhibit D of the Stipulation). It is agreed that the Respondent stopped bringing refuse to the Taylorville Landfill shortly after the Complaint was filed on December 2, 1977. (Stipulation, p. 4). Mr. Harvel admits that his bringing refuse to the Taylorville Landfill for the ultimate purpose of disposing of the refuse is a violation of the Act. (Stipulation, p. 5).

The Stipulation notes that there are two Agency-permitted solid waste disposal sites within 30 miles of Taylorville, Illinois. One is located in Springfield, Illinois, and the other is located in Decatur, Illinois. The Complainant and the Respondent agree that it is both technically practicable and economically reasonable for Mr. Harvel to bring the refuse collected in his refuse collection service to sites other than the Taylorville Landfill. (Stipulation, p. 6).

The proposed compliance and settlement program provides that the Respondent shall: (1) cease and desist from bringing refuse he collects in his refuse collection service to sites that do

not meet the requirements of the Act and the Board's Solid Waste Regulations; and (2) pay a stipulated penalty of \$500.00 . (Stipulation, p. 7).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board finds that the Respondent, Mr. Dudley D. Harvel, has violated Section 21(f) of the Illinois Environmental Protection Act from June 13, 1977 until December 5, 1977. The Board hereby imposes the stipulated penalty of \$500.00 against the Respondent.

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, Mr. Dudley D. Harvel, has violated Section 21(f) of the Illinois Environmental Protection Act from June 13, 1977 until December 5, 1977.
2. Within 45 days of the date of this Order, the Respondent, Mr. Dudley D. Harvel, shall pay the stipulated penalty of \$500.00 , payment to be made by certified check or money order to:

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

3. The Respondent, Mr. Dudley D. Harvel, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed June 5, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of November, 1978 by a vote of 3-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board