

ILLINOIS POLLUTION CONTROL BOARD
April 22, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-477
)
 MASTER PATTERN, INC., an)
 Illinois Corporation,)
)
 Respondent.)

Mr. M. Barry Forman, Assistant Attorney General, appeared for Complainant.
Mr. R. P. O'Connell appeared for Respondent.

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

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency (Agency) alleging that the Master Pattern, Inc., owns and operates, or causes to be operated a refuse disposal site located at 2148 North 36th Street, Quincy, Adams County, Illinois without the necessary operating permit in violation of Rule 202 of Chapter 7: Solid Waste Regulations and Section 21(e) of the Act.

A hearing was held on February 10, 1976 in Quincy, Illinois. Testimony was given by Paul H. Mast, President of Master Pattern, Inc., and John Diefenback, an Environmental Specialist for the Agency.

Mr. Mast testified that fill had been put into the site in question to have additional parking for his facility (R.19). This area is approximately five hundred (500) feet square (R.83). From his own company Mr. Mast put discarded foundry sand in the site, sometimes a wheelbarrow load a day and sometimes nothing for months (R.18). When floor sweepings contain the foundry sand they would also be discarded at the site (R.23). Some of Respondent's employees may have also discarded some wood pallets in the area (R.21,22). Mr. Mast has had several construction companies bring in material to fill in this area (R.29). Included in the material would be dirt, rock and concrete (R.27). Mr. Mast testified that he never covered it because what he wanted was to fill the area with dirt and he did not know what he would cover that with (R.28). Mr. Mast did recall discussion concerning a permit on an Agency visit; however, he did not remember when or if he had received an application (R.37). One was later found in his secretary's desk (R.40). Within the week before

the hearing Respondent did send in a permit application (R.72). This application was denied (R.72,73). It is Respondent's contention that he does not need a permit to fill in his land, that he is not accepting refuse but buying material to fill in his land (R.92).

Mr. Diefenback, the Agency witness, has been to the site on three occasions, March 4, 1975, October 23, 1975 and February 9, 1976 (the day before the hearing). The first two occasions Mr. Diefenback observed a sand type material, concrete, and wood pallet material (R.49,51,52). He discussed the "probable" (R.69) need for a permit with Mr. Mast and sent him an application within a week of his first visit (R.50). On February 9, 1976 Mr. Diefenback observed the site was essentially covered with a few pieces of concrete exposed (R.52).

There was some disagreement as to just how much of the material was concrete, sand and wood. Mr. Diefenback estimated a few hundred pounds of sand (R.69), 30 to 50 cubic yards of concrete and perhaps six to eight wooden pallets were what he observed (R.70) and that this would make up fifty (50) percent of the fill (R.83,84). Mr. Mast testified that to build his parking lot he needed soil and that eighty (80) to eighty-five (85) percent of the fill material was earth and the rest would be concrete or rock (R.87). Mr. Diefenback also stated that chances of harmful environmental impact to adjoining landowners or the general public were "probably none."

It is the Agency's contention that the concrete and rock brought in by outside contractors is "refuse" under the Act. And that as receiving refuse Mr. Mast needs an operating permit under Section 202(b) of the Solid Waste Regulations and 21(e) of the Act.

Section 3(k) of the Act defines "refuse" as any garbage or other discarded material. Because soil is moved from one place to another, it does not become discarded material or refuse. There was no dispute at the hearing concerning Mr. Mast's intention to increase the usefulness of his land to his company. The record does not show conclusively that the proportion of concrete, rock and wood were so large as to raise question as to its usefulness for building purposes or the necessity of treating it as solid waste.


The Board finds that the Agency has not shown that a permit is necessary in this case. The allegations of violation of Rule 202(b) of the Board's Solid Waste Regulations and of Section 21(e) of the Act are dismissed with prejudice.

This constitutes the findings of fact and conclusions of law by the Board.

ORDER

It is the Order of the Pollution Control Board that the allegations that Master Pattern, Inc., has violated Rule 202(b) of the Solid Waste Regulations and Section 21(e) of the Act be dismissed with prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22ND day of April, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board