

ILLINOIS POLLUTION CONTROL BOARD
October 9, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 75-240
)
RUSSELL SHEPPARD, d/b/a L & S)
LANDFILL,)
)
Respondent.)

Mr. Steven Watts, Assistant Attorney General, appeared for the Complainant.

Mr. Russell Sheppard appeared Pro Se.

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

The Environmental Protection Agency (Agency) filed a complaint on June 13, 1975, alleging that Russell Sheppard, d/b/a L & S Landfill (Respondent) operated a solid waste management site located in Section 4 of Williamson County without an Agency operating permit, in violation of Section 21(e) of the Environmental Protection Act (Act), and Rule 202(b)(1) of the Solid Waste Rules and Regulations (Solid Waste Rules). The Agency filed an Amended Complaint on July 30, 1975, charging Respondent with allegedly failing to place either an intermediate site cover as required by Rule 305(b) of the Solid Waste Rules, or, alternatively, a final cover as required by Rule 305(c) of the Solid Waste Rules, on another solid waste site it allegedly operated in Section 33 of Williamson County. A hearing was held on August 28, 1975.

At the hearing the parties entered a Stipulation of Facts and a Settlement Agreement. No other testimony or citizen comments was presented. Respondent stipulated that he operated the solid waste management site located in Section 4 without an Agency operating permit. Respondent stipulated that he possessed since April 1971 an Agency operating permit for the site located in Section 33. Respondent agreed as a settlement measure to apply a final cover to the site located in Section 33 within 60 days of September 1, 1975 (R.3), and thereby admitted inferentially, to a violation of Rule 305(c) of the Solid Waste Rules.

The Board finds that the Respondent has violated Section 21(e) of the Act and Rule 202(b)(1) of the Solid Waste Rules by failing to secure an Agency operating permit for the solid waste management site located in Section 4. The Board further finds that Respondent has

violated Rule 305(c) of the Solid Waste Rules by failing to apply a final cover to the solid waste management site located in Section 33.

While Respondent has clearly violated the permit requirements of the Act and Solid Waste Rules at his Section 4 site, the Settlement Agreement fails to specify remedial actions for this violation. The required action is obvious. Therefore, the Board orders Respondent to secure the necessary Agency operating permit within 120 days or close this solid waste management site.

The Board, after considering the Record, accepts the parties' settlement agreement, with the additional requirement to obtain an operating permit for the site located in Section 4. The Board must also consider the requirements of Section 33(c) of the Act in reaching a decision. The Board has considered the Section 33(c) criteria (character of injury, social-economic value, suitability of location, and technological practicability-economic feasibility of control), in relation to the Record and the admission of violations and compliance measures contained therein. The Board finds that based on these criteria the imposition of the stipulated penalty of \$650 is justified as a method to secure compliance with the Act and the Solid Waste Rules.

Respondent has advanced information on his financial condition in mitigation of the stipulated penalty.

Respondent's violation of the Act and Solid Waste Rules at both of his solid waste management sites demonstrates, at the least, a careless disregard towards compliance with the law. Given the nature of the violation at two sites, a penalty higher than \$650 would be warranted absent the Settlement and the mitigating circumstances.

Therefore the Board finds, that the stipulated penalty of \$650 is justified in view of Respondent's financial condition. Because of the financial condition of Respondent, the Board will not require a bond and will allow Respondent 90 days to pay the penalty.

This opinion constitutes the findings of fact and conclusions of law of this Board.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD THAT:

1. Russell Sheppard, d/b/a/ L & S Landfill, in Williamson County, violated Section 21(e) of the Act, and Rule 202(b)(1) of the Solid Waste Rules and Regulations by operating a waste management site in Section 4 of Williamson County

without an Agency operating permit; and also violated Rule 305(c) of the Solid Waste Rules and Regulations by failing to apply a final cover at a solid waste management site located in Section 33 of Williamson County.

2. Russell Sheppard, d/b/a/, L & S Landfill, shall cease and desist in the aforesaid violation by:
 - a. Discontinuing all refuse disposal activities at the Section 4 site unless an appropriate Agency operating permit is applied for within 30 days of the Board Order, and secured within 120 days of the Board Order
 - b. Applying final cover at the Section 33 site in accordance with Rule 305(c) of the Solid Waste Rules and Regulations, within sixty (60) days of September 1, 1975 in accordance with the parties' settlement agreement.

3. Russell Sheppard, d/b/a/ L & S Landfill should pay a penalty of \$650 for his violations of the Act and Solid Waste Rules and Regulations. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be tendered within 90 days of this adoption of this Order.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 9th day of October, 1975 by a vote of

3-0.


Christian L. MOffett, Clerk
Illinois Pollution Control Board