

ILLINOIS POLLUTION CONTROL BOARD
May 24, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-55
)
KNOX WRECKING AND MOVING, INC.,)
an Illinois corporation,)
)
Respondent.)

MS. JILL LESLIE DRELL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. ROBERT M. EGAN, 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 February 28, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On March 31, 1978, the Complainant filed a First Set of Interrogatories and Request for Production of Documents. On May 12, 1978, the Agency filed a motion for Leave to File an Amended Complaint which was granted by the Board on May 25, 1978. The nine-count Amended Complaint alleged that, on specified dates, the Respondent improperly operated a solid waste disposal site by (1) violating a condition of its Operating Permit (i.e., by employing area filling as a method of operation); (2) failing to submit quarterly water monitoring analyses for Fe, SO₄, and Total Dissolved Solids ("TDS") in violation of a special condition of its Operating Permit; (3) unloading, spreading, and compacting refuse improperly; (4) having insufficient equipment, personnel and supervision at the site; (5) failing to properly limit access to the site; (6) failing to submit the requisite standard water monitoring data; and (7) placing inadequate daily, intermediate, and final cover over portions of the site in violation of Rules 302, 303(a), 303(b), 304, 305(a), 305(b), 305(c), and 317 of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21 of the Illinois Environmental Protection Act ("Act"). After various preliminary motions, the Complainant filed a Request for Admission of Facts

and Genuineness of Documents on June 20, 1978. The Respondent did not respond to the Complainant's prior discovery requests and also failed to file a response to the Request for Admission of Facts and Genuineness of Documents.* A hearing was held on August 30, 1978.

The Respondent, Knox Wrecking and Moving, Inc. ("Knox"), is an Illinois corporation which operates a solid waste disposal site (the "site") consisting of approximately 30 acres located in Galesburg, Knox County, Illinois. This property is owned by Mr. Ernest S. Wedell, Jr. and leased by the Respondent. Knox holds Agency Operating Permit No. 1975-3-OP which authorizes the receipt of demolition debris of a non-putrescent nature such as lumber, bricks, concrete, shingle material, glass and landscape waste.**

At the hearing, Mr. John P. Taylor, an Agency employee, testified that he inspected the Respondent's facility on January 21, 1976 and June 15, 1976 and took photographs during his visit to the site. (R. 8-9; See: Comp. Exh. 2 and 3). Mr. Taylor indicated that he observed "a great deal of refuse lying uncovered about the site;" "no evidence of any attempt to install or excavate trenches at the site, as called for in the permit;" no personnel and equipment at the property; and no spreading of the refuse into layers. (R. 11-14). Mr. Taylor stated that "refuse was just being literally piled up over the site - over a large area more than an acre" and that the area filling method of operation continued to be employed, rather than the trenching method that was prescribed in the Respondent's permit. (R. 13-14). While the Respondent's Operating Permit originally authorized area filling, it stated that this method of operation should be terminated in late 1974 or early 1975. Additionally, Mr. Taylor testified that the Agency files reveal that no upstream and downstream water samples and quarterly analyses (for Fe, SO₄ and TDS) were received by the Agency for the calendar year 1977 and the first two quarters of 1978. (R. 12).

The Complainant's second witness was Mr. Terry G. Ayers, an Agency employee who testified that he inspected the site on December 21, 1977 and observed "a large amount of exposed refuse" which had not received daily cover. (R. 20-22; See: Comp. Exh. 4).

*Since the Respondent did not respond to this request for admissions, each of the matters of fact and the genuineness of each document therein is hereby deemed to be admitted under Rule 314(c) of the Board's Procedural Rules. (See: Comp. Exh. 1).

**A prior enforcement action was brought against the Respondent in 1974 for operating this site for "two or more days each week between July 28, 1974 and November 15, 1974" without an Operating Permit from the Agency. (See: Opinion and Order of the Board in PCB 74-436 dated March 13, 1975).

The Respondent's sole witness was Mr. Burrell Wainer, the chief officer and owner of Knox Wrecking and Moving, Incorporated. Mr. Wainer testified that it was not generally practical or possible to dig trenches prior to dumping material on the site due to extremely deep ravines and gullies on the property. (R. 32). Much of the area was of such a nature that machinery could not always be operated safely in trenching operations especially during adverse weather conditions. (R. 32; R. 38). However, Mr. Wainer stated that the Respondent had, in the past, filled one ravine to make it accessible to another hill" and used the hillside "to trench into and fill." (R. 32). He indicated that the landfill was used primarily as an adjunct to Knox's construction business and that his small operations were conducted intermittently when he transported demolition debris from construction jobs to the property with "even sometimes as long as a month without anyone going in there and dumping anything." (R. 36; R. 50-51). The tractors, equipment and machines used to do work at the site are the same ones used in Knox's construction work which explains why the equipment is not always present at the site. (R. 36-37; R. 54-55). While the facility is fenced in and there is a gate with a chain and lock on it, Mr. Wainer said that "the drivers take in and dispose of stuff; nobody appears to know who the last one is. Sometimes it never gets locked." (R. 36; R. 53-54).

Moreover, Mr. Wainer indicated that while he was the principal party who deposited material at the site, recently two other parties, Citywide, Inc. and McCabe Scrap Iron, had been using the property. (R. 33; R. 52-53). Additionally, unauthorized third parties (i.e., trespassers) have occasionally dumped materials at the landfill. (R. 35). Mr. Wainer also stated that, since obtaining his Operating Permit in 1975, water samples had been sent into the Agency, but that occasionally samples were not sent in. (R. 37-38). Additionally, Mr. Wainer also testified that while trenching had previously been utilized at the site, area filling was currently used; that demolition materials were spread, compacted and covered on a periodic basis, but not daily. (R. 55-57).

At the hearing, Mr. Jack Witt, the Knox County Superintendent of Highways and Supervisor of Landfills, testified that he visited and "inspected" the landfill on January 18, 1978 and took photos at that time (See: Jack Witt Exhibit 1). Mr. John G. Sutor, a farmer and Knox County Board member, testified that he accompanied Mr. Witt out to the Respondent's property on January 18, 1978 and

stated that there were "approximately 35 or 40 truckloads of refuse that ... had no cover on it." (R. 71-72). Mr. Sutor said that he saw "a great deal of cardboard boxes" "waste that either came from a home or a restaurant ..." including "several McDonald's hamburger sacks and that type of thing." (R. 73). He felt that "loose, uncompacted cardboard boxes, wooden pallets and that type of material which were (sic) there, created a definite fire hazard." (R. 74). Mr. Sutor observed no machinery on the site and "saw no evidence of any trenching operation." (R. 74).

In evaluating this enforcement action, 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. Because demolition debris of a non-putrescent nature was accepted at the site, the adverse environmental impact appears minimal. However, the Board finds that the Respondent has violated Rules 302, 303(a), 303(b), 304, 305(a), 305(b), 305(c) and 317 of Chapter 7: Solid Waste Regulations and Section 21 of the Act. Accordingly, the Board will require that the Respondent cease and desist from all further violations of the Act and the Board's Solid Waste Regulations. The Respondent shall comply with the terms and conditions of its Operating Permit No. 1975-3-OP or properly close the site and surrender this permit within 90 days from the date of this Order. Moreover, the Respondent shall, within 30 days from the date of this Order, submit the requisite water monitoring data to the Agency as per the special and general conditions in its Operating Permit, and shall continue to do so periodically as required by the permit and Solid Waste Rule 317. The Board hereby imposes a penalty of \$1200 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 has violated Rules 302, 303(a), 303(b), 304, 305(a), 305(b), 305(c) and 317 of Chapter 7: Solid Waste Regulations and Section 21 of the Act.
2. The Respondent shall cease and desist from further violations.
3. The Respondent shall comply with the terms and conditions of its Operating Permit No. 1975-3-OP or properly close the site and surrender this permit within 90 days from the date of this Order.

4. Within 30 days from the date of this Order, the Respondent shall submit the requisite water monitoring data to the Agency as per the special and general conditions in its Operating Permit, and shall continue to do so periodically as required by the permit and Solid Waste Rule 317.

5. Within 45 days of the date of this Order, the Respondent shall pay a penalty of \$1200.00 , 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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of May, 1979 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board