

ILLINOIS POLLUTION CONTROL BOARD
July 8, 1976

ENVIRONMENTAL PROTECTION AGENCY)
OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 76-40
)
ALEX CHESNEY,)
)
Respondent.)

Messrs. Russell R. Eggert and John Van Vranken, Assistant Attorneys General, appeared for Complainant
Mr. Alex Chesney, appeared Pro Se

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

This matter comes before the Board on the Complaint filed by the Environmental Protection Agency on February 10, 1976, charging that the Respondent has failed to place final cover on a former solid waste management site in violation of Rule 305(c) of the Board's Solid Waste Regulations and Section 21(b) of the Environmental Protection Act. Hearing was held in this matter on March 26, 1976, in Litchfield.

The solid waste management site which is the subject of this Complaint is an 8.2 acre site located in Montgomery County, near Litchfield. Mr. Chesney purchased this site in 1969 and has never allowed this site to be used as a solid waste management site since the date of purchase. Prior to the date that Mr. Chesney purchased the property, the City of Litchfield was the owner of the property and operated a dump thereon. The City of Litchfield abandoned the site without applying final cover. Although Mr. Chesney has been applying such cover to the site over the last several years, about one quarter of the site still remains to be covered.

Rule 305(c) of the Board's Solid Waste Regulations provides that a compacted layer of not less than two feet of suitable material shall be placed over the entire surface of a final lift not later than 60 days following the placement of refuse in the final lift. This Rule must be read in conjunction with Rule 301 which provides that no person shall cause or allow the operation of a sanitary landfill unless each requirement of this Part (i.e. Rule 305) is performed. In order for the final cover requirements of Solid Waste Rules and Regulations to apply to a given disposal site, it must be shown that the site was in operation after the effective date of these regulations. (EPA v. Palmer, PCB 76-81).

From the record in this matter, it appears that the subject site ceased operation in 1969, approximately four years before the adoption of these regulations.

In consideration of the foregoing, the Board finds that the subject site is not governed by the Solid Waste Rules and Regulations and therefore the Complaint must be dismissed.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that the Complaint in this matter against Alex Chesney be, and is hereby, dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of July, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board