

ILLINOIS POLLUTION CONTROL BOARD  
November 16, 1978

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-192  
 )  
SERVICE DISPOSAL, INC., )  
a Delaware corporation, )  
 )  
Respondent. )

ANN L. CARR, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF  
THE COMPLAINANT.

DILSAVER, GILKERSON & RYAN, ATTORNEYS AT LAW, (MR. DAVID NELSON,  
OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 24, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that the Respondent violated Rule 201 and Rule 202(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act ("Act") from February 1, 1978 until May, 1978 by developing and operating its solid waste management site without the appropriate development and operating permits having been issued by the Agency. Count II of the Complaint alleged that from February 1, 1978 until May, 1978, the Respondent caused or allowed the placement of refuse in the site in such a manner as to cause or threaten or allow the discharge of contaminants into the environment which caused water pollution and/or created a water pollution hazard (i.e., due to the high permeability of the site's soil, the migration of leachate generated by the refuse allegedly caused, threatened or allowed water pollution of sub-surface waters) in violation of Section 12(a) and Section 12(d) of the Act. A hearing was held on October 13, 1978. The parties filed a Stipulation and Proposal for Settlement on October 18, 1978.

Service Disposal, Inc. is a Delaware corporation licensed to do business in the State of Illinois which presently operates a 40 acre landfill site approximately one mile north of Loxa,

Illinois in Coles County. This sanitary landfill site is permitted by the Agency as #1971-57.

On September 16, 1977, the Respondent proposed an extension of its site by filing with the Agency an Application for Permit to Develop and/or Operate a Solid Waste Management Site. This new area of operation was to be a 15 acre tract of land immediately north of and adjacent to the present site. General, commercial, industrial and domestic waste were to be accepted at this new site. (Stipulation, p. 2).

In its permit application, Service Disposal, Inc. indicated that the typical surficial soil permeabilities for the site ranged from  $9.1 \times 10^{-5}$  to  $8.4 \times 10^{-6}$  cm/sec for the fill areas of the property. (Stipulation, p. 3). On December 13, 1977, the Agency denied the Respondent's permit application. In denying the Company's permit application, the Agency found that soils with the permeabilities indicated by the Respondent would have a high potential for groundwater pollution. The Agency further stated that in order for Respondent's proposed site, or any other site, to be permitted by the Agency, it must be demonstrated that the lateral and vertical migration of leachate were inhibited by at least ten (10) feet of  $1 \times 10^{-7}$  cm/sec or less, of permeable soil. (Stipulation, p. 3).

On December 21, 27, and 28, 1977 and January 20, 1978, Service Disposal, Inc. submitted rebuttal data to the Agency pertaining the proposed site's permeability. On February 24, 1978, the Agency responded to Respondent's rebuttal data, reiterating its previously stated position. On February 23 and 24, 1978, Agency inspections of the proposed site revealed that the Respondent had initiated disposal operations on the proposed site. A trench measuring approximately 110 yards x 22 yards had been filled to a depth of about 15 feet with refuse by the Respondent. (Stipulation, p. 3-4).

It is stipulated that Service Disposal, Inc. has caused or allowed the use or operation of the site by disposing of refuse generated by activities other than those of the Respondent from on or about December, 1977 up to and including January, 1978. (Stipulation, p. 4). At no time has the Respondent possessed a Development nor Operating Permit granted by the Agency for the development or operation of the site, nor has the Agency issued to the Respondent any such permits. (Stipulation, p. 4).

Moreover, it is stipulated that Service Disposal, Inc. has caused or allowed the placement of refuse in the site in such a place and manner as to cause or threaten or allow the discharge of

contaminants into the environment so as to cause or threaten to cause water pollution in Illinois and/or create a water pollution hazard in that due to the high permeability of the site's soil, the migration of leachate generated by the refuse so deposited in the site will cause, threaten, or allow water pollution of sub-surface waters and/or create a water pollution hazard to sub-surface waters. (Stipulation, p. 5).

The proposed settlement agreement provides that Service Disposal, Inc.: (1) admits the allegations contained in Count I and Count II of the Complaint; (2) agrees to remove all refuse previously deposited by the Respondent at the proposed new 15 acre site and deposit this refuse in a site properly permitted by the appropriate authorities by no later than January 1, 1979 (this time requirement may be extended under certain conditions which are detailed in the Stipulation); (3) file a \$5,000.00 performance bond with the Agency and (4) pay a stipulated penalty of \$1,000.00 . (Stipulation, p. 6-7).

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 Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds that, from February 1, 1978 until May, 1978, Service Disposal, Inc. violated the Board's Solid Waste Rules 201 and 202(a) and Section 21(e) of the Act by developing and operating its solid waste management site without the requisite Agency permits and also caused water pollution and created a water pollution hazard by depositing contaminants upon the land in violation of Section 12(a) and 12(d) of the Act. The Board imposes the stipulated penalty of \$1,000.00 .

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. Service Disposal, Inc. has violated Rule 201 and Rule 202(a) of Chapter 7: Solid Waste Regulations and Section 21(e) and Sections 12(a) and 12(d) of the Illinois Environmental Protection Act from February 1, 1978 until May, 1978.

2. Within 45 days of the date of this Order, Service Disposal, Inc. shall pay the stipulated penalty of \$1,000.00 , 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. Service Disposal, Inc. shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed October 18, 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 16<sup>th</sup> day of November, 1978 by a vote of 3-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board