

the smallest practical area, Rule 5.04 requiring supervision of unloading and precaution against the scattering of litter, Rule 5.06 requiring the spreading and compacting of refuse, Rule 5.07 requiring daily covering of refuse as specified; and Rule 5.09 requiring insect and rodent control measures. These latter rule violations are alleged to have begun September 8, 1966 and have continued to the date of the filing of the complaint.

We find respondent guilty of operating without a permit in violation of Section 21(e) of the Act, to have caused or allowed the open dumping of refuse in violation of Rule 3.04 and Section 21(b) of the Act, on January 11, 12 and May 4, 1971, and to have violated Rule 5.06 relating to spreading and compacting of refuse and Rule 5.07 relating to cover. In all other respects we find the evidence insufficient to support the charges alleged in the complaint. We assess a penalty in the amount of \$500.00 for the violations aforesaid and order respondents to cease and desist their dumping operation until they are in full compliance with all provisions of the Environmental Protection Act and all relevant regulations relating to the operation of refuse disposal sites and facilities and open burning.

The site in question has been operated as a dump for approximately 10 years (R.12) during the last 6 years of which it has been leased to the township. There is no issue on ownership or operation, the parties conceding that Joe D. Goff is the owner, the township the lessee and Harry F. Hathaway, individually and town supervisor the operator. The property occupies approximately 3 acres which the township rents from Goff for \$500. a year.

Nor is there any dispute as to the generally sloppy manner in which the dump has been operated in the past. Refuse is transported by truck to the site where it is taken up the side of a hill and dumped down its face indiscriminately over a 100 yard width (R.14). The refuse so dumped is "covered up every few weeks" (R.14). Environmental Protection Agency photographic exhibits 10(a)(b) and 11(a)(b) show the uncovered and uncompacted condition of a substantial area. It is reasonable to assume the condition depicted is a generally continuing one and not unique to the dates when the pictures were taken. The record also discloses that respondents have been warned since May of 1968 that their operation failed to meet minimum legal requirements for refuse sites. Respondents concede that open burning has taken place with frequency over a substantial period of time at the site. It is only that the record fails to substantiate open burning on the dates alleged that we are compelled to make a finding in favor of respondent in this regard. Likewise the evidence does not substantiate the Agency's allegations of

unsuitability of the site for landfill or the open dumping of garbage nor does the evidence support the allegations that a water pollution hazard has been created, or that Rules 5.03, 5.04 or 5.09 have been violated. While we can only act on the record before us, we would be remiss in our duties if we did not make the further observation that the record and evidence do create a strong inference that these sections were likewise violated. Our order to cease and desist will embrace all matters relating to open burning and refuse disposal operation. No impression should be created that because of our findings in some respects contrary to the Agency's allegations that we in any way tolerate the conduct of which respondents are accused. While the Board recognizes some effort has been made to improve the respondents' operation by the use of additional fill and gravel it is manifest that major changes in procedure must be employed if respondents operation is to meet the minimal legal requirements. We are not persuaded that directing respondents to comply with the law will force the community to use the Wabash River as a dumping ground as suggested (R.9). If such results take place a further proceeding will be in order.

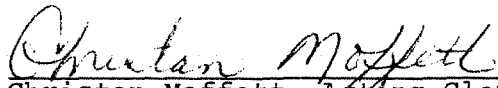
This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

The Board having considered the complaint, transcript and exhibits in this proceeding HEREBY ORDERS:

1. Respondents shall cease and desist the operation of its refuse disposal dump in Crawford County until it is in full compliance with all relevant statutory provisions and regulations relating to open burning and in full compliance with all relevant statutory provisions and regulations relating to the operation of refuse disposal sites and facilities.
2. Penalty is assessed against respondents in the amount of Five Hundred Dollars (\$500.00) for violation of Section 21 (e) of the Environmental Protection Act, requiring a permit for refuse disposal operation and for violation of the following rules of the Rules and Regulations for Refuse Disposal Sites and Facilities: Rule 3.04 prohibiting open dumping, Rule 5.06 requiring spreading and compacting of refuse and Rule 5.07 requiring daily and final cover of refuse.

I, Christan Moffett, Acting Clerk of the Illinois Pollution Control Board, hereby certify that the Board adopted the above Opinion and Order on the 23 day of November, 1971.


Christan Moffett, Acting Clerk
Illinois Pollution Control Board