

ILLINOIS POLLUTION CONTROL BOARD  
January 29, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-157  
 )  
 AAA DISPOSAL SYSTEMS, INC., )  
 )  
 Respondent. )

Mrs. Joan C. Wing, Assistant Attorney General, Attorney for  
Complainant  
Mr. Gary L. Ecklund and Mr. Gregory E. Barrett, Schleuter &  
Ecklund, Attornies for Respondent

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

AAA Disposal Systems, Inc. is charged in a Complaint filed April 14, 1975, by the Environmental Protection Agency with operating a waste management site near Roscoe in Winnebago County, Illinois without an operating permit. Respondent is alleged to have operated this site from July 27, 1974 through April 14, 1975 in violation of Rule 202(b)(1) of the Illinois Solid Waste Regulations and Section 21(b) and (e) of the Environmental Protection Act. A public hearing was held on this matter on July 21, 1975.

In lieu of testimony at the hearing the parties read into the record a Stipulation of Facts and Proposal for Settlement. This Stipulation and Proposal is submitted in resolution of the enforcement proceeding and the Board is asked to approve the settlement conditions therein. No members of the public presented testimony at the hearing.

Stipulated facts show that Respondent began operating the waste management site on November 1, 1973 "for a ten week period". Materials to be disposed of included brick, coal, ash, bank run gravel, pea gravel and/or coarse sand and broken concrete. After receiving letters from the Agency concerning inspections at this site, Respondent wrote the Agency on December 27, 1973 stating that it intended to fill the area involved so as to convert it to usable land for a future building and parking lot. Respondent requested a temporary permit to complete the filling process. On January 3, 1974 the Agency responded by sending Respondent one copy each of

the Solid Waste Regulations and instructions for completing a permit application and three copies of the permit application.

Respondent submitted a permit application dated January 5, 1974 to the Agency. In a letter dated January 9, 1974 the Agency informed Respondent of deficiencies in this permit application and that the permit was denied pending receipt of additional information. The permit application was subsequently returned to Respondent on February 1, 1974 marked incomplete. Respondent did not resubmit its permit application.

When an Agency representative visited the site on March 5, 1974 he noted that the site was closed but final cover had not been provided. This observation was conveyed to Respondent by letter dated March 18, 1974 along with instructions for applying final cover and a request that the Agency be notified upon completion of final cover application. Respondent replied to this letter stating that final grading had been completed but, with Agency approval, a low area was to be filled with sand, covered and seeded to prevent surface runoff. The Agency approved of the filling on condition that the sand used be clean and not core sand.

Thereafter, the Agency visited the site at least six times between April 1974 and February 1975. In reports sent to Respondent about these visits, Respondent was informed that Agency investigators had observed a number of possible violations. Observations included the open dumping of refuse, unsatisfactory intermediate cover, acceptance of septic tank pumpings, failure to restrict access to the site, acceptance of foundry sand, acceptance of waste oil, acceptance of barrels containing a highly hazardous liquid, failure to provide final cover and failure to obtain an operating permit.

Group Exhibit 1 to the Stipulation indicates that Respondent replied to some of the Agency letters. Others were apparently ignored. Respondent stated in one letter that waste oil was used on roads to control dust but none was actually dumped at the site. In another, Respondent stated that the refuse observed consisted of pallets removed from a roll off container in order to weld the container. On the septic tank waste, Respondent stated that he had contacted the Environmental Protection Agency and local health officials with the "general consensus" being that a permit was not required to dispose of such waste since the material consisted of 60 to 90% water. As to the barrels containing liquid, Respondent wrote that a small number of such barrels were placed at the site from time to time while awaiting transportation to a chemical company.

In a letter dated November 8, 1974 Respondent stated that sand filling had been completed and "the site is in the final covering stages and will be soon finished". However, in a letter dated over four months later Respondent indicated that final grading had not been completed. In fact, at least 50% of the site still had not

received proper final cover although application of final cover was in process on that date.

In settlement, Respondent admits violations of Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Environmental Protection Act and for these violations agrees to pay a monetary penalty of \$500.00. Further, Respondent agrees to permanently close its landfill and "upon closing of the site" to apply two feet of final cover in accordance with Rule 318 of the Solid Waste Regulations.

Since Respondent had been recalcitrant in securing the required permit, several matters must be discussed in support of our decision on this case. It is very clear from the record that the Agency made every reasonable effort to assist Respondent in achieving voluntary compliance. After the initial permit application was denied, Respondent apparently chose to forego any additional effort. A monetary penalty is clearly required here, not as a punitive measure, but rather to insure that others are not encouraged to follow Respondent's dilatory example.

From certain items in Group Exhibit 1 it would appear that Respondent was engaged in the open dumping of several types of refuse, some of which might be hazardous. However, with the exception of septic tank waste, Respondent has explained the reasons why certain materials were at the site. In the absence of any serious Agency rebuttal, the Board is inclined to accept these explanations in mitigation. The fact that most of the material disposed of at this site consists of nonputrescible waste mitigates these violations. It in no way, however, diminishes the statutory and regulatory obligations Respondent has ignored.

On the basis of the foregoing and the Stipulation and Proposal for Settlement, which constitutes the entire record in this matter, we find that AAA Disposal, Inc. did violate Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Act by operating a landfill from July 27, 1974 through April 14, 1975 without the necessary operating permit. A penalty of \$500.00 is assessed for these violations.

The alleged violation of Section 21(b) of the Environmental Protection Act is dismissed for lack of prosecution.

This Opinion constitutes the findings of fact and conclusions of law of the Illinois Pollution Control Board.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that:


1. Respondent, AAA Disposal Systems, Inc., is found to have violated Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Environmental Protection Act, and shall pay the sum of \$500.00 as a penalty for these violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

2. Respondent shall permanently close its landfill site within 35 days of the date of this Order if an operating permit has not been secured from the Agency.

3. Respondent shall fully comply with the requirements of the Solid Waste Regulations upon closing this site.

4. The alleged violation of Section 21(b) of the Environmental Protection Act is dismissed for lack of prosecution.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 29<sup>th</sup> day of January, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board