

ILLINOIS POLLUTION CONTROL BOARD
July 25, 1972

ENVIRONMENTAL PROTECTION AGENCY,)
)
)
Complainant,)
)
v.) PCB NO. 72-3
)
LOBUE, INC., an Illinois corporation,)
LOBUE EXCAVATING CO., an Illinois)
corporation, FRED LOBUE, DOROTHY LOBUE)
FOUSHI, ANTHONY LOBUE, CHARLES LOBUE,)
SAMUEL LOBUE, and the FIRST NATIONAL)
BANK OF CHICAGO HEIGHTS, a bank chartered)
by the State of Illinois, as Trustee,)
)
Respondents.)

Melvyn A. Rieff, Assistant Attorney General for the EPA
Richard Petrarca, for the Respondents

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

Respondents are the owners and operators of two refuse disposal sites in or near Chicago Heights, Illinois. The complaint filed by the Environmental Protection Agency on January 6, 1972 alleges numerous violations of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities at the two sites.

With regard to Site #1, the Agency claims that Respondents since April, 1969, have operated the site: (1) without a State permit or registration, (2) without applying adequate and sufficient cover, and (3) without proper local zoning. It is further claimed that Respondents have ignored topographical planning to the extent that the grade of the site has increased by approximately 30 feet and is now above the grade of abutting residential properties.

With respect to Site #2, it is alleged that Respondents have operated: (1) without a State permit or registration, (2) without applying adequate and sufficient cover or spreading and compacting the garbage and refuse, (3) without having adequate equipment, fencing and facilities on the site, and (4) without confining the dumping of refuse to the smallest practical area. It is also alleged that oils and hazardous materials were deposited on Site #2 without written approval of the Illinois Department of Public Health or the Environmental Protection Agency.

The hearing, scheduled for February 28, 1972, was continued because of transcript financing problems and to permit settlement discussion. A stipulation of facts and proposed order were filed by the parties on July 5, 1972. The facts as stipulated are that Respondents own and operate the refuse disposal sites and have in the course of their contracting, construction and demolition business utilized both sites to dispose of foundry sand and demolition materials. Site #1 has been used in such a manner on an irregular basis since April, 1969 and Site #2 has been so used since December, 1970.

The demolition materials consist of wood, bricks, wires, glass and other materials resulting from the performance of contracts with municipalities and private contractors to demolish old and sometimes dangerous and hazardous dwellings.

Respondents have not taken any precautions to prevent the disposal of junk cars, appliances, garbage and other debris on each site and such other material has been deposited on each of said sites.

After the materials were deposited, either by Respondents or others, Respondents spread, compacted and covered on an irregular basis leaving the refuse exposed and uncovered for many months at a time on several occasions.

Respondents have not at any time, either before or after the filing of the Complaint, registered with the State or obtained any State permit for the operation of either site. However, Respondents have contracted for the necessary soil borings on Site #2 and will apply for a State permit for said site.

The deposition of foundry sand and demolition materials on Site #1 has increased the grade of said site approximately fifteen to thirty feet to a level above the grade of the residential property adjoining the site on the north and west. However, Respondents have, as part of the settlement here being proposed agreed, and have begun, to remove fill to the southeast and east of said residences so as to eliminate any drainage problem which may have been caused said residents by the fill.

Since notice of this suit Respondents have ceased dumping at both sites.

Equipment has been employed at both sites to clean and cover and the junk cars on the site have been removed. Gates and some fencing have been installed at both sites. Further work as specified in the Order is to be done at Site #1.

The settlement proposed by the parties would require Respondents to cease and desist from depositing refuse on Site #1, cease and desist from depositing refuse on Site #2 without a permit, remove and relocate the offending fill and slag heap, construct a fence and take other steps to prevent the accumulation of junk cars, and pay a penalty of \$1,000.00.

We are asked only to judge the reasonableness of the proposed settlement.

The penalty is in line with penalties the Board has previously imposed for this type of violation. We note that Respondents ceased operation at both sites after the filing of the Complaint and have made progress toward compliance with the law. There will be some expense in the removal of a substantial quantity of fill from Site #1. The Board finds the settlement to be reasonable and it is approved.

ORDER

It is hereby ordered:

(1) Respondents are hereby ordered to cease and desist from depositing refuse on Site #1.

(2) Respondents are hereby ordered to cease and desist from depositing refuse on Site #2 until such time as a permit for said site is issued by the Illinois Environmental Protection Agency.

(3) Respondents are hereby ordered to remove fill from Site #1 to the east and southeast of the residential properties adjoining said site as agreed upon by the parties.

(4) Respondents are hereby ordered to remove the large heap of foundry slag and sand presently located on Site #1 in the southwest corner so as to level the grade with the surrounding area.

(5) Respondents are hereby ordered to construct a fence fully along the north property line of Site #1 (i.e. 26th Street) so as to prevent the deposition of junk cars on said site. And, in the event any cars are introduced upon Respondents' property, Respondents shall remove same no later than seven days after notice from the agency.

(6) Respondents are hereby ordered to pay to the State of Illinois a penalty in the amount of \$1,000.00. Payment shall be by check payable to the Fiscal Services Division, 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 was adopted this 25 day of July, 1972 by a vote of 4 to 0.

Christan L. Moffett