

ILLINOIS POLLUTION CONTROL BOARD

February 6, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
v.) PCB 74-392
)
BUD POSING,)
Respondent.)

Mr. Jeffrey S. Herden, attorney for Complainant.
Mr. Bud Posing, appeared on his own behalf.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On October 25, 1974, the Environmental Protection Agency (Agency) filed its Complaint with the Pollution Control Board (Board) against Mr. Bud Posing. The Complaint alleged that Mr. Posing, the sole proprietor of a solid waste management site located in Section 18, Township 30 North, Range 13 East, in Kankakee County, Illinois, operated a landfill without an Operating Permit from the Agency. These illegal activities were allegedly carried out from July 27, 1974, through October 25, 1974, in continuing violation of Rule 202(b)(1) of the Solid Waste Regulations (Chapter Seven).

A hearing was held on December 19, 1974, at City Hall in Kankakee, Illinois. The unrefuted evidence was that the Respondent did not have a permit on August 6, 1974, and that at the time of the hearing no permit application had been submitted (R.6). Respondent indicated that he has not worked for more than two years and that he is in poor health (R.7). The landfill site was closed after Mr. Posing found out that his activities were illegal. Some material was accepted after July 27, 1974, but only "a few loads, not to amount to nothing" (R.9). No citizens offered testimony.

The record establishes that Mr. Posing violated Rule 202(1)(b) of Chapter Seven. There was no evidence of environmental harm. All dumping has now ceased. A penalty is not assessed, because it would not further the purposes of the Environmental Protection Act and because of Respondent's poor health and economic situation.

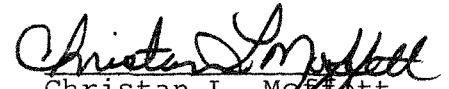
This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

IT IS THE ORDER of the Illinois Pollution Control Board that:

1. Respondent shall not reopen his landfill site without an Operating Permit issued by the Agency.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6th day of February, 1975, by a vote of 4 to 0.


Christan L. Moffett