

ILLINOIS POLLUTION CONTROL BOARD
May 31, 1973

ENVIRONMENTAL PROTECTION AGENCY)
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)
 v.) PCB 72-510
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 CITY OF MARION)
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OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

This is an enforcement case involving alleged violations at the City of Marion Landfill. Hearings were held on March 15 and 16, 1973.

The evidence proves that the City has no Agency permit to operate the landfill. Mere registration of a landfill with the Department of Public Health does not excuse the need for an Agency permit. We find such failure to have a permit to be a violation of Section 21(e) of the Act.

The Agency inspectors testified to numerous fires at the site. We find the City to be in violation of Section 9(c) of the Act and Rule 3.05 of the Rules and Regulations for Refuse Disposal Sites by allowing open burning on October 16, 1970, January 4, April 26, April 27, April 28, May 3, July 21, August 14, August 20, August 25, October 16, October 20, and December 21, 1971, January 14, January 31, February 1, February 2 and December 20, 1972. Even though there is no direct testimony that any of the City's employees actually lit the fires, we nevertheless hold the City responsible for allowing it to occur on their property so many times without taking better measures to prevent its recurrence.

The inspectors testified to many dates upon which the unloading of refuse was not supervised, where portable fences were not used to prevent blowing litter, and where the fill and surrounding area were not policed properly to collect all scattered material. We find that the City was in violation of Rule 5.04 of the above Rules on October 16, 1970, January 4, April 26, April 27, April 28, May 3, June 14, August 20, August 25, August 26, September 23, October 19, October 20, and December 21, 1971, January 14, January 31, February 2, April 28, May 9, May 10, June 12, October 19 and December 20, 1972.

The inspectors testified to numerous dates upon which the refuse was not spread or compacted. We find that the City was in violation of Rule 5.06 on October 16, 1970, January 4, April 26, April 27, April 28, May 3, June 14, July 8, July 21, August 25, August 26, September 23, October 19, October 20 and December 21, 1971, January 14, January 31, February 2, April 28, May 9, May 10, June 12, August 23, October 19, October 20, and December 20, 1972.

The inspectors also testified to dates upon which no daily cover was applied. We find that the City was in violation of Rule 5.07 (a) on October 16, 1970, January 4, April 26, April 27, April 28, May 3, June 14, July 8, August 20, August 25, August 26, September 23, October 19, October 20 and December 21, 1971, January 14, January 31, February 1, February 2, May 9, May 10, June 12, August 23, October 19, October 20 and December 20, 1972.

The complaint also alleges violations of Rule 5.12(d) which requires burning to take place only in an approved incinerator. We find it unnecessary to make findings as to this allegation because we have covered the fires here under the open burning provisions.

There are also allegations of open dumping of garbage and refuse under Sections 21(a) and 21(b) of the Act respectively and Rule 3.04 of the Rules. Section 3(h) of the Act defines open dumping as "the consolidation of refuse from one or more sources at a central disposal site that does not meet the requirements of a sanitary landfill." Section 3(L) of the Act provides that in order for a site to be a sanitary landfill the refuse must, among other things, be properly covered. Consequently, wherever we would find a violation for failure to cover we would also be able to find a violation for open dumping. We will not, however, find two separate violations for the same conduct. Since we have already found the violations for failure to cover we will not find violations for open dumping also.

We assess a penalty of \$500 for the violations found in this opinion. We also expect that if the City wants to continue using the landfill that they receive a permit from the Agency to do so.

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

ORDER

1. The City of Marion shall cease and desist from all violations found in this opinion
2. Within 120 days the City of Marion shall obtain a permit for its sanitary landfill but may operate until that time.
3. The City shall pay to the State of Illinois by June 30, 1973 the sum of \$500 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 31st day of May, 1973 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board