

ORIGINAL

BEFORE THE POLLUTION CONTROL BOARD

RECEIVED
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JUL 11 1996
STATE OF ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
C & S RECYCLING, INC., an Illinois)
corporation, FLOOD BROTHERS)
DISPOSAL COMPANY, INC., an)
Illinois Corporation, WILLIAM)
FLOOD, Individually, and as)
president of C & S Recycling,)
and BRIAN FLOOD, Individually,)
and as treasurer of C & S)
Recycling,)
)
Respondents.)

PCB 97 - 9
(Enforcement)

NOTICE OF FILING

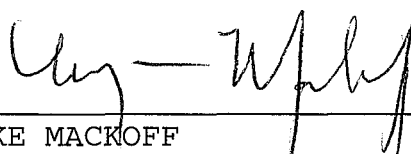
TO: See attached Service List:

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board a Complaint and Certificate of Service on behalf of the Illinois Environmental Protection Agency, a copy of which is attached and herewith served upon you.

Respectfully submitted,

JAMES E. RYAN
Attorney General
State of Illinois

BY:


MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph St. - 11th Fl.
Chicago, IL 60601
(312) 814-2381

Date: July 11, 1996

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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)	
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, complains of respondents, C & S RECYCLING, INC., FLOOD BROTHERS DISPOSAL COMPANY, INC., WILLIAM FLOOD, and BRIAN FLOOD, as follows:

COUNT I

OPEN DUMPING

1. This count is brought by JAMES E. RYAN, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency

("Agency"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(1994).

2. The Agency is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4(1994), and charged, *inter alia*, with the duty of enforcing the terms of the Act.

3. Respondent, C & S RECYCLING, INC. ("C & S"), is an Illinois corporation in good standing located at 4009 West Taylor Street, Chicago, Cook County, Illinois ("site").

4. Until at least 1992, or to a time better known to Respondents, the site was operated by Respondents, FLOOD BROTHERS DISPOSAL, Inc. ("Flood Brothers").

5. Respondent, WILLIAM FLOOD, is the president of C & S Recycling, and is responsible for the day to day operations at the site.

6. Respondent, BRIAN FLOOD, is the treasurer of C & S Recycling.

7. On October 20, 1992, when the site was being operated by Flood Brothers, the Agency inspected the site and observed at least four roll-off boxes on site containing yard waste, wood and garbage.

8. On January 19, 1993, the Agency conducted an inspection

of the site, then operated by C & S. During the inspection, the Agency inspector observed several dumpsters at the site containing miscellaneous metal containers including some containing used paint and others labeled with the word "flammable".

9. On February 11, 1993, the Agency conducted another inspection of the site pursuant to an Administrative Inspection Warrant. Inside the building at the site, the Agency inspector observed large piles of mixed recyclable and non-recyclable waste on the floor. The indoor waste items included, but were not limited to, mattresses, furniture, metal items, garbage and yard waste. The inspector also observed dumpsters containing waste metal items and other miscellaneous waste items. Outside of the building, the inspector observed a number of piles of waste including, but not limited to, furniture, mattresses, garbage and yard waste.

10. On March 4, 1994, the Agency conducted another inspection of the site. The Agency inspector observed a front loader and a conveyor belt, which is used to sort and separate waste, and two compactors filled with miscellaneous non-recyclable waste. The agency inspector also found piles of mixed recyclable and non-recyclable waste at the site both inside and

outside of the building including, but not limited to, plastic, cardboard, wood items, mattresses, garbage and used plastic buckets.

11. Section 21(a) of the Act, 415 ILCS 5/21(a) (1994), provides as follows:

No person shall:

a. Cause or allow the open dumping of any waste.

12. Section 3.24 of the Act, 415 ILCS 5/3.24 (1994), provides as follows:

"OPEN DUMPING" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

13. Section 3.31 of the Act, 415 ILCS 5/3.31 (1994), provides as follows:

"REFUSE" means waste.

14. Section 3.53 of the Act, 415 ILCS 5/3.53 (1994), provides, in pertinent part, as follows:

"WASTE" means any garbage, . . . or other discarded material, including any solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities

15. Section 3.41 of the Act, 415 ILCS 5/3.41 (1994), provides as follows:

"SANITARY LANDFILL" means a facility permitted by the

Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

16. Section 3.08 of the Act, 415 ILCS 5/3.08(1994), provides as follows:

"DISPOSAL" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any other constitute thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

17. The material described in paragraphs 7 through 10 is "waste" as that term is defined in Section 3.53 of the Act, 415 ILCS 5/3.53(1994).

18. Neither Flood Brothers nor C & S are permitted by the Agency to dispose of waste on land nor do they cover refuse with a layer of earth at the conclusion of each day's operation and, therefore, the site does not meet the definition of "sanitary landfill".

19. By the actions described herein, Respondents have caused or allowed the open dumping of waste at the site.

20. By the actions described herein, Respondents have

violated Section 21(a) of the Act, 415 ILCS 5/21(a) (1994).

WHEREFORE, complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of complainant and against respondents on Count I:

1. Authorizing a hearing in this matter, at which time the respondents will be required to answer the allegations herein;

2. Finding that respondents have violated Section 21(a) of the Act;

3. Ordering respondents to cease and desist from any future violations of Section 21(a) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against respondents for each violation of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against respondents pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II

DEVELOPING A SOLID WASTE MANAGEMENT SITE WITHOUT A PERMIT

1-10. Complainant realleges and incorporates by reference

herein paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count II.

11. Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(1994), provide, in pertinent part, as follows:

No person shall:

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) Without a permit granted by the Agency or in violation of any conditions imposed by such permit . . . ; or

(2) In violation of any regulations or standards adopted by the Board under this Act

12. Section 807.201 of the Illinois Pollution Control Board's ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 807.201, provides, in pertinent part, as follows:

. . . no person shall cause or allow the development of any new solid waste management site . . . without a Development Permit issued by the Agency.

13. Section 807.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.104, provides as follows:

"Waste management" means the process of storage, treatment or disposal of waste, not including hauling or transport.

14. Section 3.47 of the Act, 415 ILCS 5/3.47 (1994), provides as follows:

"STORAGE SITE" is a site at which waste is stored.

"Storage site" includes transfer station.

15. Section 3.46 of the Act, 415 ILCS 5/3.46 (1994), provides as follows:

"STORAGE" means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

16. Section 3.83 of the Act, 415 ILCS 5/3.83 (1994), provides, in pertinent part, as follows:

"Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility.

17. During each of the inspections described above in paragraphs 7 through 10, the Agency inspector determined that respondents were accepting mixed recyclable and non-recyclable waste from outside the facility and separating out and storing non-recyclable waste for disposal at another location.

18. By the actions described herein, respondents have developed a waste transfer station, and, therefore, a waste storage facility at the site.

19. By the actions described herein, respondents have developed a solid waste management site at the site.

20. Respondents have never possessed an Agency Development Permit to develop a solid waste management site at the site.

21. By the actions described herein, respondents caused or allowed the development of a new solid waste management site without an Agency Development Permit in violation of Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(1994), and Section 807.201 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.201.

WHEREFORE, complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of complainant and against respondents on Count II:

1. Authorizing a hearing in this matter, at which time the respondents will be required to answer the allegations herein;

2. Finding that respondents have violated Sections 21(d)(1) and (2) of the Act and 35 Ill. Adm. Code 807.201;

3. Ordering respondents to cease and desist from any further violation of Sections 21(d)(1) and (2) of the Act, and 35 Ill. Adm. Code 807.201;

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against respondents for each violation of the Act and the Board's Waste Disposal Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against respondents pursuant to

Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT III

OPERATING WITHOUT A PERMIT

1-11. Complainant realleges and incorporates by reference herein paragraphs 1 through 10 of Count I and paragraph 11 of Count II as paragraphs 1 through 11 of this Count III.

12. Section 807.202(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.202(a), provides, in pertinent part, as follows:

. . . no person shall cause or allow the use or operation of any solid waste management site for which a Development Permit is required under Section 807.201 without an Operating Permit issued by the Agency . . .

13. Section 807.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.104, provides as follows:

"Waste management" means the process of storage, treatment or disposal of waste, not including hauling or transport.

14. Section 3.47 of the Act, 415 ILCS 5/3.47 (1994), provides as follows:

"STORAGE SITE" is a site at which waste is stored.
"Storage site" includes transfer station.

15. Section 3.46 of the Act, 415 ILCS 5/3.46 (1994), provides as follows:

"STORAGE" means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

16. Section 3.83 of the Act, 415 ILCS 5/3.83 (1994), provides, in pertinent part, as follows:

"Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility.

17. During each of the inspections described above in paragraphs 7 through 10, the Agency inspector determined that respondents were accepting mixed recyclable and non-recyclable waste from outside the facility and separating out and storing non-recyclable waste for disposal at another location.

18. By the actions described herein, respondents have operated and continue to operate a waste transfer station, and, therefore, a waste storage facility at the site.

19. By the actions described herein, respondents have operated and continue to operate a solid waste management site at the site.

20. Respondents have never possessed an Agency Operating Permit to operate a solid waste management site at the site.

21. By the actions described herein, respondents have caused or allowed the use or operation of a solid waste management site for which a Development Permit is required, without an Agency Operating Permit in violation of Sections 21(d)(1) and (2) of the Act, 415 ILCS 5/21(d)(1) and (2)(1994), and Section 807.202(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.202(a).

WHEREFORE, complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of complainant and against respondents on Count III:

1. Authorizing a hearing in this matter, at which time the respondents will be required to answer the allegations herein;

2. Finding that respondents have violated Sections 21(d)(1) and (2) of the Act and 35 Ill. Adm. Code 807.202(a);

3. Ordering respondents to cease and desist from any further violation of Sections 21(d)(1) and (2) of the Act, and 35 Ill. Adm. Code 807.202(a);

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against respondents for each violation of the Act and the Board's Waste Disposal Regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Assessing all costs against respondents pursuant to Section 42(f) of the Act, including expert witness, consultant, and attorney fees; and


6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By:


WILLIAM D. SEITH, Chief
Environmental Bureau
Assistant Attorney General

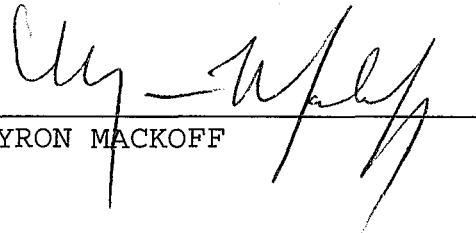
OF COUNSEL:

MIKE MACKOFF
Assistant Attorney General
Environmental Bureau
100 W. Randolph Street, 11th Floor
Chicago, Illinois 60601
(312) 814-2381

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CERTIFICATE OF SERVICE

I, MYRON F. MACKOFF, an Assistant Attorney General in this case, do certify that I caused to be mailed this 11th day of July, 1996, the foregoing Notice of Filing and Complaint upon the person listed on said Notice by certified mail in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



MYRON MACKOFF