

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-311
)
JOHN VANDER,)
)
Respondent.)

MS. CHRISTINE ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. CARL D. SNEED, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 30, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On May 18, 1978, the Agency filed a Motion for Leave to Amend its Complaint. On May 25, 1978, the Board granted the Agency's motion. Count I of the Amended Complaint alleged that, from July 27, 1973 until the date of filing of the Complaint, the Respondent caused and allowed the development and operation of a solid waste management site ("site") without the requisite Agency Development Permit in violation of Rules 201 and 202(a) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II alleged that, from July 27, 1974 until the date of filing of the Complaint, the Respondent operated the site without an Agency Operating Permit in violation of Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act. Count III alleged that, from July 27, 1973 until the date of filing of the Complaint (including, but not limited to, June 17, 1976), the Respondent disposed of refuse at other sites or facilities which did not meet the permit requirements of the Act and regulations thereunder in violation of Section 21(f) of the Act. Count IV alleged that, from September 12, 1974 until the date of filing of the Complaint (including, but not limited to, November 30, 1976, December 16, 1976, January 18, 1977, February 2, 1977 and April 21, 1977), the Respondent failed to place adequate final cover over portions of the site in violation of Rule 305(c) of Chapter 7 and Section 21(b) of the Act. A hearing was held on November 16, 1979. The parties filed a Statement of Stipulated Settlement on November 21, 1979.

The Respondent, Mr. John Vander, owns 6 acres of property located

in the vicinity of his residence and trucking business near the City of Herrin in Williamson County, Illinois. Agency inspections have indicated that refuse, not generated by the Respondent's own on-site operations, has been deposited on the property. On May 3, 1973, the site was closed, but adequate final cover was not placed on the property until September 11, 1974. (Stip. 2).

On November 30, 1976 and December 16, 1976, an Agency inspector observed several piles of combustible, uncovered insulation material (which had apparently been uncovered for several days) on an acre of the Respondent's land. (Stip. 2-4; See: Exhibits A, B, and C). The Agency employee noted that the surface of the site had a generous mix of insulation with soil and there appeared to be a large quantity of insulation material deposited there. (Stip. 3).

On January 16, 1977, an Agency inspection revealed that refuse was no longer being deposited at the Respondent's property and that Mr. Vander had done some final cover work on the site. (Stip. 4). However, subsequent Agency inspections on February 2, 1977 and March 7, 1977 indicated that little cover work had been done since the prior inspection, and that a load of assorted garbage and a load of insulation material had been recently deposited at the site. (Stip. 4-5; See: Exhibits D and E). On April 21, 1977, an Agency investigator observed three trucks owned by the Respondent deposit refuse at the site. (Stip. 6; See: Exhibit F). Additionally, although there are two Agency permitted landfills within 8 miles of the Respondent's property, on July 31, 1971; October 5, 1972 and June 17, 1976, Agency employees observed the Respondent's trucks deposit refuse at unpermitted landfills. (Stip. 5-7).

The proposed settlement agreement provides that the Respondent shall: (1) cease depositing refuse on his property; (2) promptly place final cover (consisting of 2 feet of suitable material on the subject 2 acres); (3) haul refuse to only Agency permitted sites which comply with the Board's Solid Waste Regulations and the Act; and (4) pay a stipulated penalty of \$1,000.00 .

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. The Board finds the proposed agreement to be acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, Mr. John Vander, has violated Rules 201, 202(a), 202(b)(1), and 305(c) of Chapter 7: Solid Waste Regulations and Sections 21(b), 21(e) and 21(f) of the Act. The Respondent is ordered to: (1) cease depositing refuse on his property; (2) promptly place suitable final cover over the subject 2 acres; and (3) haul refuse to only Agency permitted sites which comply with Chapter 7 and the Act. The stipulated penalty of \$1,000.00 is hereby assessed against the Respondent.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Mr. John Vander, has violated Rules 201, 202(a), 202(b)(1), and 305(c) of Chapter 7: Solid Waste Regulations and Sections 21(b), 21(e) and 21(f) of the Illinois Environmental Protection Act.
2. The Respondent shall haul refuse to only Agency permitted sites which comply with Chapter 7: Solid Waste Regulations and the Act.
3. The Respondent shall cease depositing refuse on his property in violation of Chapter 7 and the Act.
4. Within 60 days of the date of this Order, the Respondent shall place final cover consisting of 2 feet of suitable material on the subject 2 acres.
5. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000.00 which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

6. The Respondent shall comply with all the terms and conditions of the Statement of Stipulated Settlement filed November 21, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 10th day of January, 1980 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board