

ILLINOIS POLLUTION CONTROL BOARD
May 23, 1991

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)) AC 90-81 (Docket A & B)
) (IEPA Docket No. 368-90-AC)
v.) (Administrative Citation)
GEORGE RIBBLE,)
)
Respondent.)

MR. WILLIAM SELTZER APPEARED ON BEHALF OF THE COMPLAINANT.

MR. GEORGE RIBBLE, RESPONDENT, APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by J. C. Marlin):

This matter is before the Board upon a two-count administrative citation filed by the Illinois Environmental Protection Agency ("Agency") against George Ribble on September 6, 1990. The citation alleges that Ribble violated provisions of the Illinois Environmental Protection Act ("Act") concerning open dumping resulting in both litter and the proliferation of disease vectors. Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1021(q)(1) and (q)(5). The Respondent is subject to a civil penalty of \$500.00 for each violation of each provision pursuant to Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1042(b).

Hearing was held in this matter on December 6, 1990 at the Macoupin County Courthouse, Carlinville, Illinois. Mr. Dale Elenberger, Mr. Clifford Wheeler, and Mr. James W. Pitchford testified on behalf of the Agency. Mr. Ribble testified on his own behalf. One member of the public, Mr. Craig Bussman, also offered testimony. Closing arguments were waived in favor of post-hearing briefs. The Agency filed its brief on February 13, 1991. Mr. Ribble did not file a brief.

BACKGROUND

Mr. George Ribble is the owner of a site located in Macoupin County, Illinois designated by the Agency as No. 117000002, commonly known as "Hettick/Ribble No. 2." The site, of undescribed size, contains a pond at its western edge flanked by an access road and trailers on its northern and southern perimeter and is designated "Area 1" by the Agency. Another portion of the site contains woods and a field and is located to the north of Area 1. It is called "Area 2" by the Agency.

On July 28, 1990 and July 30, 1990, Dale Elenberger, Agency field inspector, inspected the site. A copy of his inspection report was filed with the citation. On the basis of his direct observation the Agency determined that Ribble has caused or allowed open dumping at the site in a manner which resulted in litter and the proliferation of disease vectors. The administrative citation requested the Board to impose a penalty of \$1,000 plus any hearing costs incurred by the Board and the Agency. The Respondent filed a timely Petition for Review.

APPLICABLE LAW

Section 21(q) of the Act states:

No person shall in violation of subdivision (a) of Section 21, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at a dump site:

1. litter;

. . .

5. proliferation of disease vectors;

. . .

Penalties in actions of this type are \$500 for each provision, plus any hearing costs incurred by the Board and the Agency. Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1042(b)(4).

DISCUSSION

Mr. Elenberger testified that the Respondent's site first came to the Agency's attention in November of 1980 when James Pitchford, Coordinator for Macoupin County Emergency Services and Disaster Agency contacted the Agency (R.8,86). The concern expressed by Mr. Pitchford was a large quantity of used tires on Respondent's property being near a waterway leading to the lake which served as the City of Hettick's main supply of water (R.45,70).

The Agency first inspected this site on November 7, 1989 and later, on November 20, conducted a "fly-over" of the property. Elenberger took several photographs of the property which were then introduced as a group exhibit (R.14; IEPA Gr. Exh. 2).

As a result of the fly over, the Agency contacted Mr. Ribble through a compliance inquiry letter (R.20). Glen Savage of the Agency also met personally with the Respondent. Mr. Ribble

allegedly agreed to obtain a shredder to shred the tires (R.21). On April 26, 1990 the Agency received a complaint from a citizen concerning the property. Elenberger followed it up by re-inspecting the property on July 28, 1990 (R. 23). An additional inspection took place on July 30 of that year. The alleged violations noted on those two days gave rise to the instant citation.

The Agency has alleged that Mr. Ribble caused or allowed open dumping on his property which resulted in litter. During his site inspection of July 28, 1990 Elenberger testified that he found barrels and waste open-dumped in weeds on Respondent's property. The waste included pieces of insulation, paper, cans, a stroller and other miscellaneous waste (R. 27). In Area No. 1 lay a pile of tires 150 feet long by 30 feet wide by 20-25 feet high (R.31). In Area 2 a smaller tire pile existed (R.29). The tires were whole and uncovered.

An additional stack of tires was found in a grain bin at the site (R.37). These had good tread on them and were for resale, according to Mr. Ribble, the inspector testified. The inspector testified that Mr. Ribble told him the tires on the property were temporarily stored there (R.38). Mr. Elenberger testified that he took samples of mosquito larvae from the tires in Area No. 2. The analysis showed the presence of mosquitos (R.29-30,38). When he inspected these tires, mosquitoes also bit him (R.34).

The inspector testified Ribble also told him the tires were treated by spraying them with insecticide spray on the top of the pile and allowing it to run down inside the pile (R.39). Elenberger told Ribble that the tires needed to be treated with an approved pesticide or have holes drilled in so water would drain out, or be covered or inside a building to keep water from accumulating (R.39). Mr. Elenberger also stated that he advised Ribble that storage of the tires means having a systematic process of reuse, reprocessing or converting the tires in a regular course of business (R.41). Mr. Elenberger testified that Ribble responded he was going to sell the tires to Archer-Daniels-Midland to use in their power station (R.41).

Elenberger also testified concerning several barrels on the property. Mr. Ribble refused the Agency full access to these barrels and did not let the Agency mark them or to photograph all of them (R.25-26,42-48).

Finally, Elenberger testified that the Agency held a September 13, 1990 pre-enforcement conference in hopes of resolving the situation (R.54). A letter dated September 21, 1990 was sent by Paul Purseglove to Mr. Ribble to memorialize the results of that conference. The letter stated that Mr. Ribble should immediately relocate the waste tires on the property away from the drainage way to the nearby lake and store them in such a way to facilitate

extinguishing any fire that may occur. Mr. Ribble was to treat the tires with an approved pesticide and stack the tires. Within 90 days Mr. Ribble was to have a machine on site capable of altering the tires so that they could no longer accumulate water. All of the tires were to be altered by April 1, 1991. Tires newly brought to the site must be altered within 14 days. The Respondent was to agree to these terms, and others, within 15 days (R.54-56).

The Respondent mailed his response to Mr. Glenn Savage dated October 6, 1990 the inspector testified. The letter stated that Mr. Ribble was "in the process of building a chopper which looks like it will work." The letter also stated that Ribble had stopped receiving tires and was moving tires but needed extra time (R.59).

Mr. Clifford Wheeler also testified on behalf of the Agency. His testimony was mainly repetitive of Mr. Elenberger's regarding Ribble's refusal to allow the Agency access to barrels at the site (R.61-64).

Mr. James W. Pitchford, the Macoupin County Coordinator for Emergency Services, also testified. He participated in the fly over and the July 28, 1990 inspection. He testified that he also saw tires, vehicles and garbage on the west side of the property near the Boy Scout Camp (R.68-69). He testified that he was concerned about possible contamination to Hettick's water supply (R.70).

Mr. Ribble testified on his own behalf. He stated that some of the tires on his property were going to be used to construct a drain tile (R.73). Others he was accumulating at a fee for future sale (R.74). He testified that he "had a processing plant bought from Pittsburgh, Kansas" which was apparently to slit or shred the tires. He also stated he had a "permit" from EPA to stockpile tires until he shreds them (R.74). The barrels on his property, he explained, are for use in his business at a future date (R.75).

On re-examination by the Agency, the Respondent identified a Used and/or Waste Tire Activity Notification form as the "permit" he was talking about (R.79-80). He also testified that he has been collecting tires since early 1989 (R.82). He believes he has fifteen thousand tires on site. (Id.) He testified that he planned to chip the tires for sale although he has not sold any tires, he admitted (R.83). He also admitted that he cancelled his order for a shredder (R.84). Further, although he stated he had plans to hire people to run the operation, he has not hired anyone (R.83,86).

Mr. Elenberger testified on re-direct that Mr. Ribble's "permit" from the Agency is a form used to notify the Agency of the type of activity being conducted. It is not a permit (R.88).

Finally, Mr. Craig Bussman, of the Macoupin County Health Department made a statement. He testified that Macoupin County has a severe tire problem and is concerned about the threat of tire fires (R.90-91).

ANALYSIS

The evidence in the record is largely unrebutted that Mr. Ribble's property contains trash, vehicles and other debris which has been openly dumped on his property. Moreover, the site contains approximately fifteen thousand tires. While Mr. Ribble may have planned to use the tires to conduct a shredding operation for resale as fuel, he has not. Nor does his method of storage and treatment of these tires rise much beyond an unmanaged site. The tires are not altered or recycled, stacked or properly treated. The Board, therefore, concludes that these tires have been improperly dumped. The Agency has thereby proven a violation of Section 21(q)(1) of the Act.

The Agency has also charged Mr. Ribble with open dumping which has resulted in the proliferation of disease vectors. The tires present have been tested and shown to be a breeding ground for several types of mosquitoes. Therefore the Agency has also proven a violation of Section 21(q)(5) of the Act.

ORDER

1. Respondent is hereby found to have been in violation on July 28 and 30, 1990 of Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1021(q)(1) and (q)(5).

2. Within 45 days of this Order Respondent shall, by certified check or money order, pay a civil penalty in the amount of \$1,000 payable to the Illinois Environmental Protection Trust Fund. Such payment shall be sent to:

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

Respondent shall also place his Federal Employee Identification Number or Social Security Number upon the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (Ill. Rev. Stat. 1989, ch. 120, par. 10-1003), from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal, during which payment of the penalty is stayed.

3. Docket A in this matter is hereby closed.

4. Within 30 days of this Order, the Agency shall file a statement of its hearing costs, supported by an affidavit, with the Board and with service upon Respondent. Within the same 30 days, the Clerk of the Pollution Control Board shall file a statement of the Board's costs, supported by affidavit and with service upon Respondent. Such filings shall be entered in Docket B in this matter.

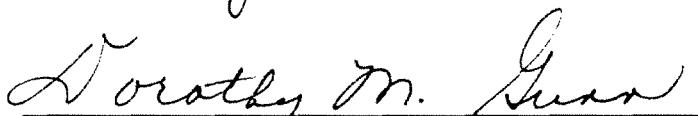
5. Respondent is hereby given leave to file a reply/objection to the filings as ordered in paragraph 4 of this Order within 45 days of this Order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

J. Theodore Meyer and M. Nardulli concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 3rd day of May, 1991 by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board