

ILLINOIS POLLUTION CONTROL BOARD
February 26, 1986

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 85-72
)
CARL H. CLARK, SR., d/b/a)
CLARK'S TIRE SERVICE,)
)
Respondent.)

MR. JAMES L. MORGAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

MR. CARL CLARK, JR. APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W.J. Nega):

This matter comes before the Board on a Complaint filed on May 9, 1985 by the Illinois Environmental Protection Agency (Agency) which alleged that, on March 21, 1978, June 24, 1982, and August 5, 1982, the Respondent, or agents or employees under his direction, improperly openly dumped used tires at specified unauthorized locations without the requisite Agency permit in violation of Sections 21(a), 21(d), and 21(e) of the Illinois Environmental Protection Act (Act).

A hearing was held on December 6, 1985 at which no members of the public were present. (R. 4). The parties filed a Stipulation and Proposal for Settlement on December 10, 1985.

The Respondent, Mr. Carl H. Clark, Sr., d/b/a Clark's Tire Service, operates a used-tire business which is located at 1626 Grand Street in Granite City, Madison County, Illinois. (Stip. 2).

It is stipulated that: (1) on March 21, 1978, the Respondent, or employees acting under the Respondent's direction, dumped over 150 used tires at a site west of the Village of Sauget in St. Clair County, Illinois near the Mississippi River; (2) on June 24, 1982, the Respondent, or employees acting under the Respondent's direction, dumped over 150 used tires on property owned by the Southern Railway Company near Monsanto Avenue in the Village of Sauget; and (3) on August 5, 1982, the Respondent, or employees acting under Respondent's direction, dumped over 150 used tires on property located southwest of New

Hanover in Monroe County, Illinois near the HH Road and Bluff Road. (Stip. 2). It is also undisputed that: (1) the Agency had not issued a permit to the Respondent which authorized the disposal of any used tires or any other waste, and (2) the Agency had not issued any solid waste management permits authorizing waste disposal activities at any of the sites that the Respondent dumped the tires at. (Stip. 3).

The proposed settlement agreement provided that the Respondent admitted the violations alleged in the Complaint and agreed to: (1) remove and properly dispose of the tires dumped on the property near HH Road and Bluff Road, west of New Hanover, Monroe County, Illinois (located in the area designated as Area A in the site diagram), such disposal including the delivery and acceptance of these tires at a legitimate tire recycling facility and/or properly permitted landfill within 120 days of the date of the Board's Order in this case; (2) use the remaining tires (located in the area designated as Area B in the site diagram) for erosion control purposes and cover these tires with at least one foot of soil which shall then be graded, compacted, and seeded within 120 days of the date of the Board's Order; (3) cease and desist from further violations; and (4) pay a stipulated penalty of \$2,000.00 into the Environmental Protection Trust Fund in specified installments. (Stip. 3-4). The parties have stipulated that the tires previously dumped at the two other locations (i.e., on the property owned by the Southern Railway System and at the site west of the Village of Sauget in St. Clair County, Illinois) are no longer there and thus present no further disposal problems. (Stip. 4).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180.

The Board finds that the Respondent, Carl H. Clark, Sr., d/b/a Clark's Tire Service, has violated Sections 21(a), 21(d), and 21(e) of the Act. The Respondent will be ordered to cease and desist from further violations, to follow the agreed-upon compliance plan, and to pay a stipulated penalty of \$2,000.00 in specified installments into the Environmental Protection Trust Fund.

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. As admitted in the Stipulation, the Respondent, Mr. Carl H. Clark, Sr., d/b/a Clark's Tire Service, has violated Sections 21(a), 21(d), and 21(e) of the Illinois Environmental Protection Act.
2. The Respondent shall cease and desist from all further violations.
3. Within 120 days of the date of this Order, the Respondent shall remove and properly dispose of the tires previously dumped on the property near HH Road and Bluff Road, west of New Hanover in Monroe County, Illinois (located in the area designated as Area A in the site diagram). Such disposal shall include the delivery and acceptance of these tires at a legitimate tire recycling facility and/or a properly permitted landfill. The remaining tires (located in the area designated as Area B in the site diagram) are to be used for erosion control purposes and shall be covered with at least one foot of soil which shall then be graded, compacted, and seeded within 120 days of the date of this Order.
4. Within 90 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the first installment of \$500.00 on the total stipulated penalty of \$2,000.00 which is to be sent to:

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

Subsequent installments of \$300.00 each are to be respectively paid within 180 days, 270 days, 360 days, 450 days, and 540 days of the date of this Order in the same manner as the initial installment payment until the entire stipulated penalty of \$2,000.00 is paid in full.

5. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on December 10, 1985, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 26th day of February, 1986 by a vote of 7-0.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board