

ILLINOIS POLLUTION CONTROL BOARD  
September 30, 1976

ENVIRONMENTAL PROTECTION AGENCY,            )  
  )  
  Complainant,            )  
  )  
  v.                            )        PCB 75-463  
  )  
CONNIE McLAUGHLIN, d/b/a CEE-JA            )  
    LANDFILL,                                    )  
  )  
  Respondent.            )

Mr. Steven Watts, Assistant Attorney General appeared for the Complainant.  
Mr. Joseph R. Bartylak appeared for the Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed December 10, 1975 by the Environmental Protection Agency (Agency) alleging that Connie McLaughlin doing business as Cee-Ja Landfill operated or caused to be operated a solid waste management site located in Section 28, Township 6 North, Range 9 West, in Madison County, Illinois; that from on or about August 15, 1973 and continuing every day of operation, particularly including but not limited to 20 named dates up to June 2, 1975 Respondent failed to place a compacted layer of at least six inches of suitable material on all exposed refuse at the end of each day of operation in violation of Rule 305(a) of the Solid Waste Regulations (Regulations); that from on or about August 14, 1973 and continuing every day of operation, particularly but not limited to 20 named days up to June 2, 1975, Respondent failed to spread and compact refuse as rapidly as it was deposited at the site in violation of Rule 303(b) of the Regulations; that Respondent caused or allowed open burning in violation of Rule 311 of the Regulations including but not limited to August 15, 1973 and August 26, 1974; that Respondent has allowed liquid wastes or sludges to be accepted at the said site without authorization by permit in violation of Rule 310(b) of the Regulations including but not limited to five named days between December 6, 1973 and August 26, 1974; that Respondent caused or allowed operation of a refuse disposal site without providing adequate measures to monitor and control leachate in violation of Rule 314(e) of the Regulations including but not limited to eight named dates from March 18, 1974 to June 2, 1975; and that Respondent has since July 1, 1974 to

the date of filing the complaint, failed to place final cover over all the final lifts of the solid waste management site in violation of Rule 305(c) of the Regulations including but not limited to six named dates from August 26, 1974 to June 2, 1975.

A hearing was held in this matter on June 7 and 8, 1976. During that proceeding the Agency made a motion to amend the complaint to conform to the proof under Procedural Rule 328. Paragraph 4 of the complaint would be changed to allege a violation of 305(a) rather than 305(e) (R. 5, 6). Paragraph 9 of the complaint would be amended to include June 1, 1976 as a date of alleged failure to provide final cover in violation of Rule 305(c) of the Regulations (R. 257-259). Respondent had no objections. The Board finds there was no undue surprise and the amendment will be allowed. Respondent made a motion to strike two portions of the Complaint, Paragraph 6 alleging open burning, a violation of Rule 311 of the Regulations, and two dates, August 26, 1974 and June 2, 1975, of Paragraph 8 concerning the monitoring of leachate on the basis that there was no evidence to substantiate or prove the allegations. This motion was referred to the Board for ruling. The Board allows the motion to strike in both instances. There was no proof whatsoever offered concerning leachate on August 26, 1974 and June 2, 1975. The presence of a fire in Respondent's auto salvage yard a couple hundred yards from Respondent's waste management site is not sufficient to support an allegation of open burning (R. 95). Complainant's other reference to remains of what appeared to be burned tires and the burned inner core of tires does not clearly establish that open burning took place on the refuse site (R. 146, 147). For these reasons the Board dismisses Paragraph 6 of the Complaint and the dates of August 26, 1974 and June 2, 1975 from Paragraph 8 of the Complaint.

Respondent Connie McLaughlin has run Cee-Ja Landfill for twenty-five years (R. 243). The landfill is approximately three hundred thirty feet long and one hundred sixty-five feet wide (R. 267). Mr. McLaughlin was the sole owner of Cee-Ja Landfill during the period of operation (R. 235). His son owns the land where Cee-Ja is situated (R. 294). The land was transferred to the son four or five months before the hearing (R. 294). Mr. McLaughlin states that he shut his landfill site down altogether in May 1974 (R. 236).

The Agency presented testimony and exhibits concerning the Cee-Ja Landfill. The testimony covered from August 15, 1973 to June 1, 1976 (R. 91, 92, 43). On August 15, 1973 there was a large area of refuse uncovered and uncompacted (R. 89). There was no equipment operating and no activity concerning covering on the 15th (R. 89). On August 16, 1973 the site was in the same condition as the day before, no activity, no covering, no spreading and compacting (R. 91, 92). Equipment was there on the 16th but it was being used in Mr. McLaughlin's auto salvage adjacent to the landfill (R. 92). The site was substantially the same as August 15, 1973 on September 12, 1973, October 19, 1973 and October 23, 1973 (R. 101). The area is filled with uncompacted, unspread, unlevelled demolition (R. 101). Also there were cardboard containers, tires, cans and doors (R. 104). Inspections on November 16, 1973 and December 6, 1973 again showed the area to be basically the same (R. 112). On December 6, 1973 the dumping of six fifty-five gallon barrels of an undetermined liquid was observed (R. 112).

On March 18, 1974 and March 20, 1974 the site was again inspected (R. 119). On March 18, 1974 much of the demolition material was covered with a sludge-like material (R. 119). This material came from an oil company in Wood River (R. 122). It was still present on April 10, 1974 and the site in the same condition (R. 130, 132). On the March 18 visit Mr. McLaughlin was told he needed a special permit to accept something other than ordinary solid waste (R. 122). Sludge was still present and uncovered on August 26, 1974 (R. 145) and October 11, 1974 (R. 151). Leachate was observed at the site on several occasions, March 20, 1974 (R. 123), April 10, 1974 (R. 131), May 1, 1974 (R. 135), June 4, 1974 (R. 141), and December 20, 1974 (R. 39). There were no wells to monitor the leachate (R. 142). The landfill does slope toward a creek (R. 38) and leachate was observed entering the creek on one inspection date (R. 157). Agency witness, Mr. McCarthy, testified that he thought the creek was named "Honeycut Branch" (R. 197).

During a May 1, 1974 inspection Mr. McLaughlin stated that he was closed (R. 134). At this time he was informed of the final cover requirements (R. 134). Through several inspections up through June 1, 1976 final cover over the total landfill area had not been properly placed on the landfill (R. 141, 145, 151, 154, 155, 162, 163). On October 11, 1974 some efforts at cover had been made but approximately one and one half acres remained to be covered (R. 151, 152). On June 1, 1976 some final cover had been placed; the upper elevations of

the fill had a foot to eighteen inches of cover material, on the lower slopes there was still some uncovered refuse (R. 43).

Mr. McLaughlin has been running his landfill for twenty-five years (R. 243). He has had permits from Madison County, the last of which would have run out in June of 1974 (R. 234). The Environmental Control Division of Madison County has had a lien on the solid waste management site since May 29, 1968 (R. 307, 309). This was to guarantee to Madison County that Mr. McLaughlin would comply with the requirements of Madison County insofar as the landfill is concerned (R. 311). On December 15, 1975 Madison County gave Respondent six months to bring his site into compliance or the lien against the property would be assessed (Resp. Ex. 4). Respondent has never received a permit from the Agency for the landfill or for receiving liquid wastes or sludges (R. 234).

Mr. McLaughlin stated that the sludge was fuller's earth used as a filter to take the acids out of oil and that a crude oil formed on the earth (R. 240). He further stated that he received twenty-seven loads of this "filter clay" at approximately eighteen cubic yards a load (R. 241). Respondent intended to let it dry and use it for roads (R. 242). Approximately forty yards of material were used on his road (R. 241). Mr. McLaughlin stated there was plenty of dirt at the site and that he did use it on the landfill (R. 244). Respondent stated that prior to June, 1975 whenever he could get the time and his machine was in operation he would place cover on the landfill (R. 268, 269). Respondent's bulldozer is old and needs repairs although it does run (R. 269, 270). Respondent was told the repairs needed to have the bulldozer "fixed up" would cost \$6,000 and he only has \$800 (R. 270). He has no other earth moving equipment (R. 270). Respondent stated he didn't think he could ever get the cover done the way the Agency wanted it (R. 292).

Mr. McLaughlin receives one hundred twenty-nine dollars and ten cents a month from Social Security (R. 266). His wife works two days a week (R. 266). The automobile salvage business is closed up (R. 267). Respondent sold the auto salvage business for one hundred dollars a week (R. 243, 244); however, payments for the business stopped in January or February of 1976 (R. 266). The business is now closed (R. 266).

Respondent's total income for 1973 was \$36,965.44 (R. 238). In 1974 his total income was \$34,540.77 (R. 238). In 1975 his total income was \$3,695 (R. 238). The income from the landfill

site itself was \$1,366 in 1973 and \$2,338 in 1974 (R. 238). In 1975 Respondent had no income from the landfill (R. 238). Respondent stated that he kept records but that he didn't know how much he charged per load (R. 250). He stated that he was cheaper than other landfills (R. 250). The charge was not determined on quantity but per load (R. 251).

Mr. McLaughlin has placed cover on the site since the last Agency inspection (R. 272). Pictures of the site indicate most of it is covered (Resp. Ex. 1, 2, 5, 6, 7, 8, 9). Respondent did not cover approximately fifty or sixty yards from which he uses the bricks and blocks to scatter on the road and the wood he uses in his furnace rather than coal in the wintertime (R. 273). Respondent estimates to place two feet of cover would take thirty days (R. 293).

The Board finds that the facts of this case clearly show violations of Rules 303(b), 305(a), 305(c), 310(b), and 314(e) of the Regulations. Before the Board can determine a final remedy the factors of Section 33(c) of the Act must be considered.

In this case there were no water samples set forth in the evidence; however, the testimony was that at least on one occasion a leachate flow was traced to a point where it entered the creek (R. 157) and on another date leachate was infiltrating down into the sand of the creek bed (R. 39, 40). On July 1, 1974 five leachate paths were observed (R. 135). Although actual damage may not have been shown, the potential for water pollution is great. This landfill has been run in this manner for twenty-five years, a threat to the public waters of the State. The waste management site was of obvious economic value to Mr. McLaughlin; however, an improperly run landfill is of little value to society when it creates pollution problems. The purpose of the permit system is to prevent pollution before it occurs. Respondent could and should have applied for a permit.

The Agency admits that there is some question of Respondent's ability to pay a penalty at this time and his financial ability to place final cover; however, because Respondent's past violations are so gross and the length of time required for Respondent to place any final cover was so long, the Agency suggests that a penalty is necessary. The Agency also requests proper closure of the site and the posting of a

performance bond in the amount of \$7500 to guarantee compliance. Respondent estimates the site could be adequately covered for \$1200 (R. 277). The Board finds that a bond of \$3,000 would be adequate.

Respondent's financial condition seems to mitigate against imposing a penalty; however, the violations were as flagrant during the years with no apparent economic stress as during the latter periods. Throughout numerous inspections, reports of possible violations were ignored or openly discarded. This in addition to accepting oily sludge and liquid wastes of unknown composition in a site that slopes into waters of the State shows an utter disdain of environmental matters. There is no evidence that compliance with all regulations during the active years (1973 and 1974) of this landfill were not economically and technically feasible. Respondent stated that there was plenty, ten thousand yards or better, land on the site to cover every portion of the landfill with two feet of final cover (R. 276). Respondent also managed to pay a man \$600 at the last of May 1976 to do some cover work (R. 278). The Board finds a very large penalty to be appropriate in this case, but because of Respondent's financial condition will impose only \$1500 for the violations.

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

#### ORDER

It is the Order of the Pollution Control Board that:

1. Complainant's motion to amend the complaint to conform with the proof under Procedural Rule 328 is granted.
2. Respondent's motion to strike Paragraph 6 and two dates from Paragraph 8 of the Complaint is granted.
3. Respondent Connie McLaughlin d/b/a Cee-Ja Landfill is found to have operated its landfill so as to violate Rules 303(b), 305(a), 305(c), 310(b) and 314(e) of the Board's Solid Waste Regulations.
4. Respondent Connie McLaughlin shall cease and desist from further violations of said Rules and Regulations.

5. Respondent Connie McLaughlin shall within 90 days of the date of this Order place final cover in compliance with Rule 305(c) and complete the closure requirements as stated in Rule 318.
6. Respondent Connie McLaughlin shall post a performance bond in the amount of \$3,000 within thirty (30) days of this Order to assure completion of final cover as contemplated in the foregoing Opinion. Such bond will be in a form acceptable by the Environmental Protection Agency and shall be sent to:

Illinois Environmental Protection Agency  
Division of Land Pollution Control  
2200 Churchill Road  
Springfield, Illinois 62706

7. Respondent shall pay the sum of Fifteen Hundred Dollars (\$1500) as a civil penalty for past violations of the Solid Waste Regulations. Payment to be made within 120 days of the date of this Order to the State of Illinois by certified check or money order sent to:

State of Illinois  
Fiscal Services Division  
Illinois Environmental Protection Agency  
2200 Churchill Road  
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 30<sup>th</sup> day of September 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board