

ILLINOIS POLLUTION CONTROL BOARD
October 12, 1984

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 81-88
)
NATIONAL DIVISION OF)
MOLINE CORPORATION,)
)
Respondent.)

GERHARDT BRAECKEL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

CYNTHIA SWIGER, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the May 27, 1981 Complaint brought by the Illinois Environmental Protection Agency (Agency) which alleged that, during the time period between June 2, 1977 and May 27, 1981, the Respondent, the National Division of Moline Corporation (Moline Corporation), violated Section 21(e) of the Illinois Environmental Protection Act (Act) by improperly disposing of foundry sand at a site which did not meet the requirements of the Act and regulations thereunder. The site in question is a 2.83 acre, triangular-shaped, vacant lot owned by Allen J. Welin and located across the street from Welin's home north of the City of Belvidere on Poplar Grove Road in Boone County, Illinois. (See: Opinion and Order of October 12, 1984 in the interrelated case of IEPA v. A. J. Welin, PCB 80-125). The Agency has never issued a Development Permit or Operating Permit for the Welin site.

On May 28, 1981, the Agency filed a Motion for Consolidation of this case with PCB 80-125, IEPA v. A. J. Welin which the Board denied on June 10, 1981. On June 22, 1981, the Moline Corporation filed its answer and affirmative defenses denying the pertinent allegations of the Complaint.

A hearing was held on July 12, 1984 and the parties filed a Stipulation and Proposal for Settlement (Stip.) at that time.

The Moline Corporation owns and operates a foundry on Meadow Road in the City of Belvidere in Boone County, Illinois which produces foundry sand as a by-product of its operations. At one time, the National Division of Moline Corporation operated under the name "National Grey Iron Foundry". The Agency has contended that the foundry sand on the Welin property came from the National Grey Iron Foundry and that, on at least one occasion, an employee of the Moline Corporation dumped a load of foundry sand at the Welin site. (Stip. 2). However, the Moline Corporation has denied that it dumped foundry sand at the Welin property. (Stip. 2).

Agency inspections during August, 1983 and December, 1983 revealed that most of the filled area on the Welin property was covered with thick, two-foot high vegetation and that dozens of cottonwood seedlings were in the process of becoming established. Additionally, these Agency inspections indicated that there appeared to be some thin soil cover on most of the filled area along with some clay-covered small barren patches. (Stip. 2).

The parties believe that appropriate seeding and the addition of a few inches of soil to the top of the filled area at the Welin site (and the addition of one foot of soil on the slopes of the filled area which face the river) will produce sufficient vegetation with good root structures for the retardation of runoff and the prevention of erosion. (Stip. 2-3). Accordingly, the Moline Corporation and the Respondent A. J. Welin in the case of IEPA v. A. J. Welin, PCB 80-125 (See: Opinion and Order of October 12, 1984 in PCB 80-125) have agreed to perform the necessary covering and seeding operations at the Welin site. (Stip. 3).

The Moline Corporation has noted that it has entered into the proposed settlement agreement solely for the purpose of resolving disputed facts and to avoid the expense of litigation and steadfastly maintains that it does not admit that it violated the Act "or any other statute, regulation or ordinance". (Stip. 3). Moreover, in view of the expensive remedial program which the Respondent has agreed to complete, the settlement agreement provides for the imposition of no monetary penalty against the Moline Corporation.

The proposed settlement agreement provides that the Respondent Moline Corporation and the Respondent A. J. Welin in the interrelated case of IEPA v. A. J. Welin, PCB 80-125, jointly and severally shall: (1) place one foot of soil cover on the two

slopes of the elevated filled-in area of the site which face the river, and (2) seed the top and slopes of the site with fescue or a similarly appropriate seed. (See: Opinion and Order of October 12, 1984 in IEPA v. A. J. Welin, PCB 80-125). Additionally, as part of the agreed-upon remedial program for the Welin site, Mr. A. J. Welin has stipulated that he shall be responsible for placing two inches of soil cover on top of the entire filled-in area of the site. All the above-mentioned remedial measures shall be completed within six months of the date of the Board Order in this case. (Stip. 3-4).

After evaluating all the facts and circumstances of this case, the Board finds the proposed settlement agreement acceptable under 35 Ill. Adm. Code 103.180 and will order Respondent National Division of Moline Corporation to follow the agreed-upon compliance program.

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. Within 6 months of the date of this Order, Respondent National Division of Moline Corporation and the Respondent A. J. Welin in the case of IEPA v. A. J. Welin, PCB 80-125, jointly and severally shall:

- (a) Place one foot of soil cover on the two slopes of the elevated filled-in area of the site which face the river, and
- (b) Seed the top and slopes of the site with fescue or a similarly appropriate seed.

2. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on July 12, 1984, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 12th day of October, 1984 by a vote of 5-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board