

ILLINOIS POLLUTION CONTROL BOARD
January 13, 1983

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 80-209
)
VILLAGE OF PALESTINE, a municipal)
corporation,)
)
Respondent.)

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

COX, PHILLIPS & WEBER, P.C. (MR. FRANK J. WEBER, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 12, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from January 1, 1978 until November 12, 1980 (including, but not limited to, January 31, 1978; April 11, 1979; May 23 1979; July 12, 1979; September 6, 1979; and October 16, 1979), the Respondent conducted unauthorized refuse disposal activities on property north of, and adjacent to, its ten acre landfill site located about two miles south southwest of the Village of Palestine ("Village") and 1½ miles west of State Route One in Crawford County, Illinois ("municipal site"). These unauthorized disposal activities were in violation of Standard Condition #2 of the Respondent's Operating Permit No. 1971-18; thereby violating Rules 201, 202(a), 301, and 302 of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(b) [now redesignated Section 21(a)] and Section 21(e) [now redesignated Section 21(d)] of the Illinois Environmental Protection Act ("Act").

Count II alleged that, from November 1, 1978 until November 12, 1980 (including, but not limited to, November 1, 1978; January 31, 1979; and April 11, 1979), the Village failed to properly compact and spread all refuse at its municipal site in violation of Rules 301 and 303(b) of Chapter 7 and Section 21(b) [now Section 21(a)] of the Act.

Count III alleged that, intermittently from February 1, 1978 until November 12, 1980, the Respondent failed to place adequate

daily cover on the municipal site in violation of Rules 301 and 305(a) of Chapter 7 and Section 21(b) [now Section 21(a)] of the Act.

Count IV alleged that, intermittently from April 1, 1979 until November 12, 1980 (including, but not limited to, April 11, 1979), the Village allowed the open burning of refuse at the municipal site in violation of Rule 502(a) of Chapter 2: Air Pollution Regulations ("Chapter 2"); Rules 301 and 311 of Chapter 7; and Section 9(c) and Section 21(b) [now Section 21(a)] of the Act.

Count V alleged that, from January 1, 1978 until November 12, 1980 (including, but not limited to, February 8, 1978; May 9, 1978; September 6, 1979; and October 16, 1979), the Respondent conducted unauthorized refuse disposal operations on property near State Route 33, one-half mile northwest of the Village of Palestine ("Route 33 site") without the necessary permits from the Agency in violation of Rules 201 and 202(a) of Chapter 7 and Section 21(e) [now Section 21(d)] of the Act.

Count VI alleged that, intermittently from January 1, 1978 until November 12, 1980 (including, but not limited to, February 8, 1978; May 9, 1978; and September 6, 1979), the Village failed to place adequate daily cover on exposed refuse at the Route 33 site, in violation of Rules 301 and 305(a) of Chapter 7 and Section 21(b) [now Section 21(a)] of the Act.

Count VII alleged that, intermittently from January 1, 1978 until November 12, 1980 (including, but not limited to, February 8, 1978; May 9, 1978; April 11, 1979; May 23, 1979; September 6, 1979; and October 16, 1979), the Respondent allowed the open burning of refuse at the Route 33 site in violation of Rule 502(a) of Chapter 2; Rules 301 and 311 of Chapter 7; and Section 9(c) and Section 21(b) [now Section 21(a)] of the Act.

Count VIII alleged that, from January 1, 1980 (including, but not limited to, July 9, 1980), the Respondent engaged in open burning of refuse at a gravel pit northeast of the Village of Palestine near Walnut Street ("Walnut Street site") in violation of Rule 502(a) of Chapter 2; Rules 301 and 311 of Chapter 7; and Section 21(b) [now Section 21(a)] of the Act.

Count IX alleged that the Respondent conducted its operations at the Walnut Street site without the requisite Agency permits in violation of Rules 201 and 202(a) of Chapter 7 and Section 21(d) of the Act.

On October 14, 1982, the Board entered an Order which attempted to expedite proceedings in this case. A hearing was held on November 29, 1982 and the parties filed a Stipulation and Proposal for Settlement on December 1, 1982.

The proposed settlement agreement provides that the Respondent admits the violations as charged in Counts I, II, III, IV, VIII, and

IX of the Complaint and agrees to: (1) apply two feet of final cover to the municipal site and Walnut Street site within 120 days of the date of the Board's Order in this case; (2) cease and desist from further violations; and (3) pay a stipulated penalty of \$500.00. (Stip. 9-10). The Agency has agreed that it is appropriate to dismiss Counts V, VI, and VII of the Complaint which pertain to alleged violations at the Route 33 site. (Stip. 9).

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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

The Board finds that the Respondent, Village of Palestine, has violated Rules 201, 202(a), 301, 302, 303(b), 305(a), and 311 of Chapter 7: Solid Waste Regulations; Rule 502(a) of Chapter 2: Air Pollution Regulations; and Section 9(c); Section 21(b) [now Section 21(a)]; and Section 21(e) [now Section 21(d)] of the Act. The Respondent will be ordered to cease and desist from further violations; promptly place the appropriate final cover on the municipal site and the Walnut Street site; and pay the stipulated penalty of \$500.00.

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. Respondent, Village of Palestine, has violated Rules 201, 202(a), 301, 302, 303(b), 305(a), and 311 of Chapter 7: Solid Waste Regulations; Rule 502(a) of Chapter 2: Air Pollution Regulations; and Section 9(c); Section 21(b) [now Section 21(a)]; and Section 21(e) [now Section 21(d)] of the 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 place the requisite final cover on the municipal site and the Walnut Street site.

4. Counts V, VI, and VII of the Complaint are hereby dismissed.

5. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a stipulated penalty of \$500.00, 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 Stipulation and Proposal for Settlement filed on December 1, 1982, 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 was adopted on the 13th day of January, 1983 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board