

ILLINOIS POLLUTION CONTROL BOARD
October 8, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-322
)
CITY OF WAUKEGAN, a municipal)
corporation, and WAUKEGAN UNIT)
SCHOOL DISTRICT #60,)
)
Respondents.)

MR. WILLIAM E. BLAKNEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

DIVER, BOLLMAN, GRACH & QUADE, ATTORNEYS AT LAW (MR. THOMAS W. DIVER, OF COUNSEL), APPEARED ON BEHALF OF THE CITY OF WAUKEGAN.

LONCHAR, NORDIGAN & RADOSEVICH, ATTORNEYS AT LAW (MR. DONALD M. LONCHAR, JR., OF COUNSEL), APPEARED ON BEHALF OF THE WAUKEGAN UNIT SCHOOL DISTRICT #60.

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

This matter comes before the Board on the December 5, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from October 9, 1973 until December 5, 1977, the Respondents failed to place the necessary final cover over portions of the refuse disposal site ("site") owned by the Waukegan Unit School District #60 ("District") and operated by the City of Waukegan ("City"), thereby violating Rule 305(c) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(b) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, from September 24, 1975 until December 5, 1977, the Respondents allowed the open dumping of refuse without having an Operating Permit for the site in violation of Rule 202(b)(1) of Chapter 7 and Sections 21(b) and 21(e) of the Act.

Count III alleged that, from October 9, 1973 until December 5, 1977, leachate from the site entered Yeoman Creek resulting in turbidity and unnatural color in violation of Rule 203(a) of Chapter 3: Water Pollution Control Regulations ("Chapter 3") and Section 12(a) of the Act.

Count IV alleged that, on various specified occasions between September 26, 1973 and December 5, 1977, the Respondents allowed the level of ammonia in Yeoman Creek to exceed applicable limits in violation of Rule 302(f) of Chapter 3 and Section 12(a) of the Act.

Count V alleged that, intermittently from September 26, 1973 until December 5, 1977, the Respondents allowed the level of iron in Yeoman Creek to exceed permissible levels in violation of Rule 203(f) of Chapter 3 and Section 12(a) of the Act.

Count VI alleged that, from October 9, 1973 until December 5, 1977, the Respondents operated their sanitary landfill in such a manner as to cause water pollution by allowing leachate from the site to flow into Yeoman Creek in violation of Rule 313 of Chapter 7 and Section 21(b) of the Act.

Count VII alleged that the Respondents failed to operate their site in such a manner as to prevent the contaminants deposited on the land from creating a water pollution hazard in violation of Section 12(d) of the Act.

On November 29, 1979, the Board entered an Order which attempted to expedite activity in this case. On March 6, 1980, the City filed a Motion to Dismiss Proceedings. On April 3, 1980, the Board granted the City's Motion to Dismiss. On May 8, 1980, the Agency filed a Motion to Reinstate this action. This motion was granted by the Board on May 29, 1980.

A hearing was held on February 5, 1981. On June 25, 1981, the Board entered an Order which mandated that the parties file an executed copy of the proposed Stipulation.

The parties filed a signed copy of the Stipulation and Proposal for Settlement, which was substantially identical to the proposed agreement which was discussed at the hearing, on July 27, 1981.

The Waukegan Unit School District #60 owns a refuse disposal site of approximately 13.76 acres which is located east of Lewis Avenue between Buck and Sunset Avenues in the City of Waukegan, Lake County, Illinois. Yeoman Creek, an Illinois water, flows through the site. This property, which has not been actively used as a landfill since 1969, is controlled, operated, and managed by the City of Waukegan. On July 30, 1973, the site was officially closed. (Stip. 2).

Agency inspections conducted after July 30, 1973 indicated that there were various problems pertaining to a lack of final cover and leachate from the site entering Yeoman Creek. (See: Exhibit A). On February 23, 1977, Bauer Engineering, Inc. completed its study pertaining to the problems at the site and made various recommendations to the Respondents regarding the correction of existing problems. (See: Exhibit B). Over a period of time, these recommendations were implemented.

Between 1979 and 1980, the Respondents: (1) completed their program of applying adequate final cover to the site; (2) installed a fence with gates and locks to restrict access to the property; (3) posted signs near all access points to indicate that random dumping is in violation of a local ordinance, and (4) installed a retention berm, along the area of the property directly bordering Yeoman Creek, to prevent any flow of leachate from the site into Yeoman Creek. (Stip. 3).

Additionally, to aid in the prevention of erosion, the Respondents have agreed to complete the application of seeding to the surface of the site by November 1, 1981. (Stip. 4). Moreover, a careful monitoring program of Yeoman Creek will be implemented to sample and analyze, on a quarterly basis, the water quality and sediment levels at various specified points. (Stip. 4).

The proposed settlement agreement provides that the Respondents shall: (1) promptly complete the seeding of the site; (2) implement a detailed monitoring program of Yeoman Creek (which includes measurement of the levels of chloride, iron, ammonia, total dissolved solids, COD, and PCB) and submit the results of the monitoring to the Agency every 3 months for a period of 3 years, and (3) pay a stipulated penalty of \$1,000.00 . (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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondents, the City of Waukegan and the Waukegan Unit School District #60, have violated Rules 203(a), 203(f), and 512(a) of Chapter 3: Water Pollution Control Regulations; Rules 202(b)(1), 305(c), and 313 of Chapter 7: Solid Waste Regulations, and Sections 12(a), 12(d), 21(b), and 21(e) of the Illinois Environmental Protection Act. The Respondents will be ordered to pay the stipulated penalty of \$1,000.00 .

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. The Respondents, the City of Waukegan and the Waukegan Unit School District #60, have violated Rules 203(a), 203(f), and 512(a) of Chapter 3: Water Pollution Control Regulations; Rules 202(b)(1), 305(c), and 313 of Chapter 7: Solid Waste Regulations, and Sections 12(a), 12(d), 21(b), and 21(e) of the Illinois Environmental Protection Act.

2. Within 45 days of the date of this Order, the Respondents shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000.00 which is to be sent to:

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

3. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed July 27, 1981, 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 were adopted on the 8th day of October, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board