

ILLINOIS POLLUTION CONTROL BOARD
October 22, 1981

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 79-256
)
 ESL, INC., AND)
 WASTE MANAGEMENT OF ILLINOIS, INC.,)
)
 Respondents.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the complaint filed November 19, 1979 by the Illinois Environmental Protection Agency (Agency) against Environmental Sanitary Landfill, Inc. (Environmental) and Waste Management of Illinois (Waste Management). Pursuant to leave of the Board, an amended complaint was filed December 6, 1979, substituting ESL, Inc. (ESL) for Environmental as the proper co-respondent. The six-count complaint alleges violations of the Environmental Protection Act (Act) and of Chapter 7: Solid Waste arising from the operation of a solid waste management site located at Laraway Road in Joliet, Will County.

Hearing was held on August 18, 1980 at which time a Stipulation and Proposal for Settlement was entered into the hearing record (Joint Ex. 1). Several members of the public there present objected to the stipulation's proposed \$7000 penalty, raised questions concerning possible drinking water contamination, and testified concerning adverse health effects resulting from severe odor problems. On September 18, 1980, the Board rejected the stipulation, and remanded the case for further development of the record in the above mentioned areas.

A second hearing was held May 18, 1981. No amendment to the original stipulation was proposed, although further information in the form of an Exhibit F to the stipulation was introduced. Citizen hearing participants again asked questions and criticized the proposed penalty.

Exhibit F (containing an analysis of soil borings and monitoring wells for the site, as well as nearby private wells), strongly indicates that the pollution of the upgradient private wells probably is not caused by the ESL site, and that the drinking water problems testified to by various citizens appear to be attributable to other sources. The severe odor problems which plagued the area surrounding the ESL site appears to have been

abated by the summer of 1980, after the cleaning out of the lagoons. However, the bulk of the citizen testimony presented at both hearings, but particularly that of August, 1980, disputes the appropriateness and effectiveness of the proposed remedial action and the penalty of "only" \$7,000.

Three of the six counts in this action allege long term (1975-1979) violations involving either failure to obtain permits, or substantial operational deviations from the conditions of those permits which had been received. The odor pollution and water pollution hazard alleged in two of the remaining counts flow from these deviations.

The permit system is the "first line" of defense against the various environmental and social problems which may flow from land burial of waste. The Board intends to give close and strict scrutiny to any cases alleging permitting violations, in order to insure that the nature and extent of the actual violation, if any, is fully delineated, and that an appropriate relief order is framed and penalty imposed, if necessary. The Board believes that such action on its part is essential as an aid both to the enforcement of the Act and the permit regulations, and to generation of public confidence in the integrity and efficacy of the enforcement process itself.


In this case, based on the unsworn citizen testimony contained in the admittedly abbreviated record before the Board, lack of compliance with permitting requirements and conditions would seem to have been the cause of a major public health threatening event in Joliet. However, the stipulation in this case does not contain a full stipulation of all material facts pertaining to the nature, extent, and causes of the alleged violation. The stipulation contains, in the main, only representations of what each party would anticipate proving at hearing. The representations, being neither admitted facts or proven facts, are insufficient to allow the Board to properly adjudicate the allegations of violations, or to intelligently assess a fine (if necessary) reasonably related to the extent of environmental or other harm involved.

The Board believes that this action is one which cannot be properly resolved by stipulation. Hearing shall be scheduled within 60 and held within 90 days of the date of this Order.

IT IS SO ORDERED.

Board members Dumelle and Werner dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 22nd day of October, 1981 by a vote of 3-2.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board