

ILLINOIS POLLUTION CONTROL BOARD  
June 10, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 80-182  
 )  
WASTE CONTROL, INC., a )  
Delaware corporation, and )  
IRVIN W. STEVENS, an )  
individual, )  
 )  
Respondents. )

CHRISTINE ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

ROSENBERG, ROSENBERG, BICKES, JOHNSON & RICHARDSON, ATTORNEYS AT LAW (MR. JEFFREY D. RICHARDSON, 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 October 3, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").\*

Count I of the Complaint alleged that, on specified occasions between April 1, 1979 and October 3, 1980, the Respondents accepted special wastes (such as liquid wastes, sludges, and solid wastes) at their solid waste management site ("site") without having a supplemental permit from the Agency in violation of Rules 210, 301, 302, and 310(b) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Sections 21(a) and 21(b) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, intermittently from November 1, 1979 until October 3, 1980, the Respondents failed to properly unload refuse (i.e., to deposit all refuse into the toe of the fill or into the bottom of the trench) in violation of Rules 301 and 303(a) of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count III alleged that, from November 1, 1979 until October 3, 1980, the Respondents sometimes failed to adequately spread and compact refuse as rapidly as it was deposited in violation of Rules 301 and 303(b) of Chapter 7 and Sections 21(a) and 21(b) of the Act.

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\*This is a case of first impression pertaining to special waste manifests.

Count IV alleged that, from April 1, 1979 until October 3, 1980, the Respondents occasionally failed to provide sufficient equipment, personnel, and supervision at the site in violation of Rules 301 and 304 of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count V alleged that, on certain dates between July 1, 1979 until October 3, 1980, the Respondents failed to place adequate daily cover on refuse in violation of Rules 301 and 305(a) of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count VI alleged that, intermittently from July 1, 1979 until October 3, 1980, the Respondents failed to apply adequate final cover over certain sections of the fill in violation of Rules 301 and 305(c) of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count VII alleged that, on various specified occasions between October 1, 1979 and October 3, 1980, the Respondents violated certain conditions in their Operating Permit by not having proper dikes, grade stakes, and litter fences in violation of Rules 301 and 302 of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count VIII alleged that, intermittently from October 1, 1979 until October 3, 1980, the Respondents failed to collect all litter by the end of each working day in violation of Rules 301 and 306 of Chapter 7 and Sections 21(a) and 21(b) of the Act.

Count IX alleged that, on ten specified dates between August 1, 1979 and October 3, 1980, the Respondents failed to require a completed, signed manifest on special wastes that were accepted at the site in violation of Rules 302(a) and 501(E) of Chapter 9: Special Waste Hauling Regulations ("Chapter 9") and Sections 21(a) and 21(b) of the Act.

Count X alleged that, on December 21, 1979, the Respondents accepted a special waste that was permitted and destined for a site other than the Respondents' landfill as the final destination point, as indicated by the manifest, in violation of Rule 501(C) of Chapter 9 and Sections 21(a) and 21(b) of the Act.

A hearing was held on April 20, 1981 at which the substance of the proposed settlement agreement was presented. The parties filed their executed Stipulation and Proposal for Settlement on May 18, 1981. Accordingly, the Board finds that this procedure was in substantial compliance with the Board's Procedural Rule 331.

Waste Control, Inc. (the "Company"), a Delaware corporation which has been licensed to do business in Illinois since October 22, 1974, operates a sanitary landfill on about 35 acres of leased property at 960 Moffett Lane in Decatur, Macon County, Illinois pursuant to Agency Operating Permit No. 1976-28-OP. From December 30, 1976 until January 1, 1981, Mr. Irvin W. Stevens ("Mr. Stevens") has operated the refuse disposal site for the Company. (Stip. 2). Mr. Stevens "became the sole stockholder of Waste Control through a purchase agreement reached February 8, 1979". (Stip. 2).

All of the capital stock in the Company was transferred from Mr. Stevens to Mr. Gerald B. Reynolds on January 1, 1981. (Stip. 3; See: Exhibit A). The purchase agreement between Mr. Stevens and Mr. Reynolds indicates that "Stevens relinquishes all right to operate said site and to benefit financially from the operation of the site by Waste Control, Inc. and Gerald B. Reynolds." (Stip. 3). On January 20, 1981, the Agency "was sent notice of Stevens' relinquished interest in Waste Control, Inc. by David L. Beck of Andrews' Environmental Engineering, Inc." (Stip. 3).

The proposed settlement agreement provides that the Respondents admit that the violations delineated in Counts I through X of the Complaint did occur on one or more (but not all of) the specified dates alleged in the Complaint. (Stip. 10). The parties have stipulated that the Respondents have subsequently "made steady improvement toward compliance." (Stip. 12).

Additionally, the "Respondents represent that all of the capital stock of Waste Control, Inc. has heretofore been sold on an escrow agreement, which sale disposes of all interest, right of control or financial benefit in Waste Control, Inc. a corporation, on the part of the Respondent Irvin W. Stevens, with the exception of the forfeiture provisions contained therein which specify that in the event of failure or refusal of the purchaser of said stock to carry out the terms of the agreement forfeiture of the agreement results." (Stip. 11).

Moreover, Mr. Stevens "represents that he is not now and does not intend in the future or at any time to engage in the landfill business in the State of Illinois or any other state" and "that the only possible involvement" of Mr. Stevens in the landfill business at any future date would be the result of "a breach in forfeiture" of the escrow agreement "with respect to the sale of the capital stock of Waste Control, Inc." (Stip. 11).

Furthermore, the Respondents have agreed to jointly and severally pay a stipulated penalty of \$1,500.00 .

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 and finds the settlement agreement acceptable under Procedural Rule 331.

The Board finds that the Respondents, Waste Control, Inc. and Irvin W. Stevens, have violated Rules 210, 301, 302, 303(a), 303(b), 304, 305(a), 305(c), 306, and 310(b) of Chapter 7: Solid Waste Regulations; Rules 302(a), 501(C), and 501(E) of Chapter 9: Special Waste Hauling Regulations, and Sections 21(a) and 21(b) of the Illinois Environmental Protection Act. The stipulated penalty of \$1,500.00 will be jointly and severally assessed against the Respondents.

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, Waste Control, Inc. and Irvin W. Stevens, have violated Rules 210, 301, 302, 303(a), 303(b), 304, 305(a), 305(c), 306, and 310(b) of Chapter 7: Solid Waste Regulations; Rules 302(a), 501(C), and 501(E) of Chapter 9: Special Waste Hauling Regulations, and Sections 21(a) and 21(b) of the Illinois Environmental Protection Act.

2. Respondent Irvin W. Stevens shall cease and desist from further violations.

3. Within 60 days of the date of this Order, Respondents Waste Control, Inc. and Irvin W. Stevens shall, by certified check or money order payable to the State of Illinois, jointly and severally pay the stipulated penalty of \$1,500.00 which is to be sent to:

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

4. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on May 18, 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 10<sup>th</sup> day of June, 1981 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board