

ILLINOIS POLLUTION CONTROL BOARD
January 4, 1979

PEOPLE OF THE STATE OF ILLINOIS)
and VILLAGE OF BURNHAM,)
)
Complainants,)
)
v.) PCB 76-184
)
WASTE MANAGEMENT, INC., a Delaware)
corporation, WASTE MANAGEMENT OF)
ILLINOIS, INC., a Delaware corporation)
and CHEMICAL WASTE MANAGEMENT, INC.,)
a Delaware corporation,)
)
Respondents.)

MS. SUSAN SHUMWAY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE PEOPLE OF THE STATE OF ILLINOIS.

MR. RICHARD J. MATUGA, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE VILLAGE OF BURNHAM.

PEDERSEN & HOUP, ATTORNEYS AT LAW (MR. KENNETH J. GUMBINER, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENTS.

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

Waste Management, Inc. ("Waste, Inc.") is a Delaware corporation. Waste Management of Illinois, Inc. ("Waste Illinois") is also a Delaware corporation and is a wholly-owned subsidiary of Waste, Inc. Chemical Waste Management, Inc. was, until December 31, 1976, a Delaware corporation. On December 31, 1976, Chemical Waste Management was merged into Waste Illinois and since that time has functioned as a division of that corporation.

Waste Illinois owns and operates a solid waste disposal site known as C.I.D. Landfill (hereinafter referred to as "CID Landfill" or the "site") located at or near 138th Street and the Calumet Expressway in Cook County, Illinois. This site is operated for the receipt and disposal of solid and liquid wastes. It is operated 24 hours per day, 6 days per week, 52 weeks per year. (Stipulation, p. 2). The site is bounded on the south and east by the Little Calumet River. Across the Little Calumet River to the southeast of the site is a residential area of the Village of Burnham. Across the Little Calumet River to the south of the site is a residential area of Calumet City, and to the southwest of the site is a

residential area of the Village of Dolton. The area to the north and west of the site consists primarily of industrial and commercial establishments. Some commercial and industrial establishments are also located to the south of the site. (Stipulation, p. 2-3).

On June 23, 1976, Complainant People of the State of Illinois ("People") filed a Complaint against Waste, Inc. On June 30, 1976, the People filed a Motion to File Amended Complaint. This motion was granted and an Amended Complaint was filed on July 8, 1976. On July 16, 1976, the People filed a Motion to File Second Amended Complaint. The motion was granted and the Second Amended Complaint was filed on July 22, 1976. On September 3, 1976, the People filed a Motion for Leave to File Third Amended Complaint. The motion was granted and the Third Amended Complaint was filed on September 30, 1976. The Third Amended Complaint was brought by Complainant People and Complainant Village of Burnham against Waste, Inc., Waste Illinois, and Chemical Waste Management, Inc. On May 6, 1977, Complainant People filed a Motion for Leave to File Fourth Amended Complaint. The motion was granted and the Fourth Amended Complaint was filed on May 12, 1977. The Fourth Amended Complaint was brought by Complainant People and Complainant Village of Burnham against Waste, Inc., Waste Illinois, and Chemical Waste Management, Inc. Count I alleged that Waste Illinois owned the site, and that from April 1, 1975 until the date of filing of the Fourth Amended Complaint, Waste, Inc. and Waste Illinois operated the site in such a manner as to permit the discharge of contaminants, as odors, from the site, in sufficient quantity and of such characteristics and duration as to unreasonably interfere with the enjoyment of life and property of residents in the area in violation of Section 9(a) of the Illinois Environmental Protection Act ("Act") and Rule 102 of Chapter 2: Air Pollution Control Regulations. Count II alleged that, since April 1, 1975, and continuing each day of operation to the date of filing of the Fourth Amended Complaint, Respondents operated the site in accordance with a plan which, when completed, will cause the site to have an elevation between 620 and 660 feet above sea level; that this height will render the site useless for any productive purposes and constitutes scenic blight, contrary to the policy announced in Section 20 of the Act; and that the excessive accumulation of refuse so as to create scenic blight is in violation of Section 21(a) of the Act. Count III alleged that, beginning on April 1, 1975 and continuing on each day until the filing of the Fourth Amended Complaint, Respondents have accepted and disposed of certain highly odoriferous chemical wastes at the site in such a manner as to cause or allow the discharge of odors from the site, in sufficient quantities and of such characteristics and duration as to unreasonably interfere with the enjoyment of life and property of residents in the area, in violation of Section 9(a) of the Act. Count IV alleged that, on or about December 25, 1976, and continuing each day until the filing of the Fourth

Amended Complaint, Respondents failed to collect litter from the site at the end of the working day and deposit it in the fill and compact and cover it, or store it in a covered container, in violation of Rule 306 of Chapter 7: Solid Waste Regulations. A hearing was held on November 14, 1978. The parties filed a Stipulation and Proposal for Settlement on November 14, 1978.

At all times pertinent to this action, Waste Illinois has owned and operated CID Landfill. Waste, Inc. has neither owned nor operated the site. (Stipulation, p. 7). Waste Illinois accepts and disposes of liquid, solid, and semi-solid wastes at the facility. Solid and semi-solid wastes are disposed of in the operating face of CID Landfill. Liquid wastes are disposed of either by injection into several injection stations located away from the operating face of the landfill or by application to solid and semi-solid wastes disposed of in the working face. The method of disposal of the liquid wastes depends upon the characteristics of each individual waste.

The Attorney General's Office and the Illinois Environmental Protection Agency have received a number of complaints of odors being emitted from CID Landfill since April 1, 1975. Complainant represents that, were a hearing to be held in this action, Complainant would present testimony of: (1) at least twenty persons residing in the vicinity of the site, in Dolton, Burnham, and/or Calumet City, who would testify in substance that on numerous occasions since April 1, 1975, they have observed odors of an objectionable nature emanating from CID Landfill; that the odors have on occasion caused headaches and a feeling of nausea; that the odors occasionally compel residents, during warm weather, to curtail outdoor activities, to forego the use of their property, and to go indoors and close the windows to avoid the objectionable odors; and (2) several employees of the Agency who would testify, in substance, that on at least two occasions they have detected odors in residential areas near CID Landfill and have traced those odors to CID Landfill. (Stipulation, p. 8-9).

Complainant contends that the foregoing facts establish that CID Landfill has, on numerous occasions since April 1, 1975, emitted odors which have unreasonably interfered with the health of and enjoyment of property by citizens residing near the site, in violation of Section 9(a) of the Act. Waste Illinois does not admit these violations. However, as a basis for settlement only, Waste Illinois offers no evidence to refute Complainant's contention. (Stipulation, p. 9). Waste Illinois does not admit that it is the cause or source of the odors complained of by area residents. However, the parties agree that there are several potential sources of odor emissions at CID Landfill: (1) Liquid and semi-solid material while on trucks or while being unloaded; (2) Migration of landfill gas through the clay cover over the

landfill; and (3) Escape of landfill gas through extinguished flares. (Stipulation, p. 9). The parties agree that the odor detection and abatement program set forth in the Compliance Program can be expected to minimize or prevent odors from escaping from CID Landfill.

Additionally, Complainant represents that if a hearing were held in this matter, Complainant would present the testimony of at least one citizen and the Chief of Police of Burnham who would testify that, on several occasions in December, 1976 and January, 1977, they observed litter blowing from CID Landfill into neighboring communities, and that the litter was not collected for a period of several days on each occasion. Complainant contends that the above facts establish that Waste Illinois has violated Rule 306 of the Board's Solid Waste Regulations. Waste Illinois does not admit the violations, but as a basis for settlement, offers no evidence in rebuttal. (Stipulation, p. 9-10).

The proposed settlement agreement provides for an extremely detailed Compliance Program. The initial cost of the Compliance Program (including revenue lost from the restrictions to which Waste Illinois has voluntarily submitted) is estimated to be in excess of \$1,000,000.00 . Additional cost is involved in operating the Compliance Program on a day-to-day basis, and that cost is estimated to be in excess of \$100,000.00 per year. (Stipulation, p. 22). The parties have agreed that:

(1) In order to beautify the site, the completed slopes along the banks of the Little Calumet River have been in part and will be graded, covered, and seeded with grass and ground cover by June 1, 1979. Shrubs and trees will be planted to beautify the view of the site from the east. Planting of shrubs and trees will proceed as expeditiously as possible within the limitations imposed by the planting seasons, and will be completed by June 1, 1980.

(2) To further protect against litter blowing off the site, six additional wind-screens have been purchased in addition to the four existing screens, and currently are and will be positioned downwind of the active landfill face. In addition, a low area will be maintained for use as the landfill face during periods of high winds.

(3) In order to restrict the height of CID Landfill, Waste Illinois agrees that no more decomposable waste will be placed on the part of the site which is located within the Village of Burnham, even though additional height has been permitted in that area by the Agency. No non-decomposable waste shall be placed on the portion of the site located within the Village of Burnham unless such additional placement of waste is necessary to maintain

existing grade and contour. Waste Illinois agrees to give written notice (including a topographic survey) to the Village of Burnham and the Attorney General's Office of any proposed deposition of non-decomposable waste in Burnham at least 60 days before such waste is deposited. (Stipulation, p. 20).

(4) Waste Illinois agrees to promptly install and maintain a specified odor prevention program at the site:

- a. To aid in detecting potential odors before they are distinguishable olfactorily, a combustible gas detector (such as that manufactured by Mine Safety Appliances Co.) will be purchased and used;
- b. Four stations, as well as all injection stations at the site, will be monitored daily for odors by the field superintendent. Monitoring shall be by visual and olfactory observation, and the combustible gas detector shall be operated at each inspection point daily;
- c. Waste Illinois shall maintain a complete and accurate record of each inspection on a special form;
- d. In the event that odors are observed by the field superintendent which are of such intensity as to be potentially detectable at the boundaries of the site, the appropriate corrective measures shall be taken to rectify the situation (these measures are specified and detailed in the Stipulation);
- e. A complete record of all oral and written odor complaints received by CID Landfill shall be maintained by Waste Illinois;
- f. In order to prevent odor incidents from the disposal of liquid or semi-solid wastes, Waste Illinois will implement a specified program to determine, in advance of disposal, whether wastes proposed for disposal are potential sources of odor (including prior sampling of any new liquid or semi-solid wastes, chemical tests, etc.);
- g. Each container arriving for disposal at CID Landfill, except those to be disposed of by direct unopened burial of the container, will be opened and monitored for offensive odors that might be strong enough to diffuse beyond the boundaries of the site at a detectable level, considering all factors relevant to odor emissions including, but not limited to, the disposal technique planned and the quantity of the waste. If such an odor

is discovered, the container will either be rejected and the waste stream declared unacceptable for future disposal, or specified procedures will be followed to eliminate such odors;

h. Waste Illinois has entered into a contract with Reserve Synthetic Fuels, Inc. to proceed with a landfill gas recovery and processing facility, to be installed at CID. This facility is expected to minimize odors that may be associated with landfill gas emissions. Landfill gases will be collected by a system of network piping, and the gases so collected will then be processed to remove the impurities such as water, carbon dioxide, and heavier hydrocarbons from the methane gas. It is proposed that the remaining methane then be piped to a utility company pipeline for use as a fuel. At least three days prior to the start-up of the facility, Waste Illinois shall notify the Attorney General's Office of the date and time of start-up. Waste Illinois and/or Reserve Synthetic Fuels, Inc. shall apply for and obtain all necessary permits from the Agency; and

i. Four flares have been installed and will be maintained on top of the completed portion of the landfill to burn off the combustible gases and odors generated by the waste deposited at the site. Waste Illinois shall install additional collection pipes or flares as required if odorous landfill gases are detected at the property line of the site at any time. Waste Illinois may discontinue the use of all flares after the gas recovery project is in full operation and continuous service, if no odorous landfill gases are detectable at the property line of the site.

(5) Waste, Inc. and Chemical Waste shall be dismissed as Respondents upon approval of the Stipulation by the Board.

(6) All records and documents required to be maintained and preserved by Waste Illinois shall be available for inspection and copying by authorized representatives of the Attorney General's Office and of the Agency.

(7) Waste Illinois shall pay a stipulated penalty of \$1,500.00 .

In evaluating this enforcement action and proposed settlement, 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. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974). Accordingly, the

Board accepts the Stipulation and Proposal for Settlement and finds that Waste Management of Illinois, Inc. has violated Rule 102 of Chapter 2: Air Pollution Control Regulations and Rule 306 of Chapter 7: Solid Waste Regulations and Section 9(a) and Section 21(a) of the Illinois Environmental Protection Act. The Board hereby dismisses Waste Management, Inc. and Chemical Waste Management, Inc. as Respondents in this action. Additionally, the Board imposes the stipulated penalty of \$1,500.00 against the remaining Respondent, Waste Management of Illinois, Incorporated.

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. Waste Management of Illinois, Inc. has violated Rule 102 of Chapter 2: Air Pollution Control Regulations and Rule 306 of Chapter 7: Solid Waste Regulations and Section 9(a) and Section 21(a) of the Illinois Environmental Protection Act.

2. Within 35 days of the date of this Order, Waste Management of Illinois, Inc. shall pay the stipulated penalty of \$1,500.00 , payment to be made by certified check or money order to:


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

3. Waste Management of Illinois, Inc. shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed November 14, 1978, which is incorporated by reference as if fully set forth herein.

4. Chemical Waste Management, Inc. and Waste Management, Inc. are hereby dismissed as Respondents in this action.

Mr. Goodman abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4th day of January, 1979 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board