

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-157
)
CITY OF MARION,)
)
Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

FOWLER & NOVICK, ATTORNEYS AT LAW (MR. WILLIAM NOVICK, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the May 31, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that the City of Marion (the "City") conducted its solid waste management operation in such a manner as to violate a condition of its Operating Permit and Rules 302, 305(a), 306, 314(e) and 317 of Chapter 7: Solid Waste Regulations and Section 21(b) of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that the City of Marion violated Rules 305 and 318 of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. A hearing was held on October 16, 1978. The parties filed a Stipulation and Proposal for Settlement on December 22, 1978.

The City of Marion is a municipal corporation organized under the laws of the State of Illinois. The Respondent has, at all times pertinent to the Complaint in this case, and for some time prior to the relevant time frames of the Complaint, leased 40 acres of property in Williamson County, Illinois from Mr. Claude White of Marion, Illinois. The City of Marion holds Operating Permit No. 74-23-OP (which was granted to the Respondent by the Agency on December 15, 1975) which authorizes the City to conduct a solid waste management operation at the site.

Condition Number 1 of the Operating Permit No. 74-23-OP provides:

"Monitor Wells W1 and W2 are to be sampled and analyzed quarterly (January, April, July and October) for Fe, NH₃, Chloride, and TDS. Results should be forwarded to the Technical Unit of the Division of Land Pollution Control of the Illinois Environmental Protection Agency."

It is stipulated that, during a period beginning on or about November 1, 1976, and ending on or about April 1, 1978, the City of Marion failed to comply with this permit condition. (Stipulation, p. 3; Record, p. 6).

It is also stipulated that, during a period beginning on or about April 21, 1977, and ending on or about June 21, 1977, including, but not limited to, April 21, 1977, the City failed to apply the requisite daily cover material on the site. (Stipulation, p. 3). It is also agreed that, since on or about April 21, 1977, the City of Marion has not collected all litter from the landfill at the end of each working day and either placed the litter in the fill, and compacted and covered it, or stored the litter in a covered container, and has failed to take adequate measures to monitor and control leachate. (Stipulation, p. 4). Moreover, from on or about June 21, 1977 until December 22, 1978, the City of Marion has failed to place the necessary final cover on the site. Additionally, since on or about June 21, 1977, and continuing to the date of the filing of this Complaint, the Respondent has failed to monitor gas, water and settling at the property. (Stipulation, p. 4).

It is stipulated that the Agency has given the City of Marion notice of the operational defects at the site in question. (See: the letters sent by the Agency and received by the City which are dated May 4, 1977, May 31, 1977, September 26, 1977, January 18, 1978, and February 6, 1978 and are marked as Exhibits A through E respectively and are attached to and incorporated by reference into the Statement of Stipulated Settlement). Furthermore, on two occasions, Agency inspectors took photographs of the property. (See: Exhibits F, G and H which contain the described photographs with indications of the dates and times the photographs were taken and which are also incorporated by reference into the Statement of Stipulated Settlement).

The City of Marion admits that all the previously mentioned stipulated facts indicate that the alleged violations of the Board's Solid Waste Regulations and the Act did, in fact, occur. (See: Stipulation, p. 5). The Respondent and the Agency agree that it is both technically practicable and economically reasonable to comply with the Act and Chapter 7: Solid Waste Regulations. To this end, the City of Marion has agreed to follow a specified Compliance Program. (Stipulation, p. 6). It is stipulated that the Respondent has only recently taken steps to bring the site into compliance. The City of Marion has hired independent contractors to place and grade the final cover at the site and conduct any sampling and analysis that may be needed at a cost in excess of \$10,000.00. (Stipulation, p. 6; Record, p. 7).

The proposed settlement agreement and Compliance Program provides that the City of Marion will: (1) place and grade final cover at the subject site as required by the Act, Chapter 7: Solid Waste Regulations and the City's permit application and Operating Permit on, or before, May 21, 1979. On, or before, May 30, 1979, the City of Marion will have a certified professional engineer contact the Agency and certify that the final cover has been placed and properly graded; (2) come into compliance with, and will in the future

comply with, all provisions of the Board's Solid Waste Regulations that were alleged to have been violated and that were specifically delineated in the Complaint in this case; (3) cease and desist from further violations; and (4) pay a stipulated penalty of \$750.00 within 45 days of the entry of the Board's Order.

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 Illinois Environmental Protection Act. Accordingly, the Board finds that the Respondent, the City of Marion, has violated Rules 302, 305, 305(a), 306, 314(e), 317 and 318 of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. The Board hereby imposes the stipulated penalty of \$750.00 against the Respondent.

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 Respondent, the City of Marion, has violated Rules 302, 305, 305(a), 306, 314(e), 317 and 318 of Chapter 7: Solid Waste Regulations and Section 21(b) of the Illinois Environmental Protection Act.
2. The Respondent, the City of Marion, shall cease and desist all further violations.
3. The Respondent, the City of Marion, shall place and grade final cover at the subject site as required by the Act, the Board's Solid Waste Regulations and the City of Marion's permit application and Operating Permit on, or before, May 21, 1979. On, or before, May 30, 1979, the City of Marion shall have a certified professional engineer contact the Agency and certify that the final cover has been placed and properly graded.
4. Within 45 days of the date of this Order, the Respondent, shall pay the stipulated penalty of \$750.00 , 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

5. The Respondent, the City of Marion, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 22, 1978, which is incorporated by reference as if fully set forth herein.

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 13th
day of February, 1979 by a vote of 30.



Christan L. Moffett, Clerk
Illinois Pollution Control Board