

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-92
)
METROPOLITAN DISPOSAL)
COMPANY, INC.,)
an Illinois corporation,)
)
Respondent.)

ANNE MARKEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

METROPOLITAN DISPOSAL COMPANY, INC. (BY MR. STANLEY MORTEN, SECRETARY OF THE COMPANY), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the March 24, 1978 Complaint brought by the Illinois Environmental Protection Agency alleging that, from June 7, 1976 until March 24, 1978, Metropolitan Disposal Company, Inc. ("Metropolitan") failed to place final cover on its solid waste disposal site in violation of Rule 301 and Rule 305(c) of Chapter 7: Solid Waste Regulations. A hearing was held on June 7, 1978. The parties filed a Stipulation and Proposal for Settlement on June 14, 1978.

Metropolitan Disposal Company, Inc. operated a construction and demolition refuse disposal site north of Lake-Cook Road in Deerfield, Lake County, Illinois. The site accepted up to 1,000 tons of construction refuse and 4,000 tons of demolition refuse per week from 1966 until March, 1975. After closing the site in March, 1975, Metropolitan covered part, but not all, of the filled areas with the necessary two feet of compacted cover material. (Exhibit D; R. 2-3).

The Agency notified Metropolitan of the need for additional cover in a Notice of Violation dated September 9, 1976. (Exhibit A). The Company replied by letter dated September 13, 1976. (Exhibit B).

Subsequent Agency inspections revealed that final cover remained inadequate, and Metropolitan was so notified by the Agency in a letter dated November 8, 1976. (Exhibit C).

Metropolitan Disposal Company, Inc. responded in a letter dated November 15, 1976. (Exhibit D). The Company stated that the Deerfield site "was not a sanitary land-fill for disposal of garbage but only for nonputrescible debris from the construction and demolition of buildings. Therefore, there is no smoke nor gases nor odors on the site from decomposition of putrescible wastes..." (Exhibit D). The Company indicated that the property was "for the most part ... supporting a lush growth of grass and weeds," but also noted that some "unauthorized dumping" had occurred after the firm left the site. (Exhibit D).

Agency reinspections on November 23, 1976 and March 17, 1977 revealed that the condition of the site had not substantially changed. (Exhibit E and F). After notification by the Agency, Metropolitan Disposal Co., Inc. indicated in a letter dated April 11, 1977 that it believed the two foot final cover rule applied only to garbage disposal sites where there was a possibility of the "escape of malodorous gases from the putrefying garbage." (Exhibit G).

The Agency, in a letter dated May 13, 1977, replied that there were no exemptions from the final cover rule, and that leachate had been observed on the site. (Exhibit H). In its letter dated June 4, 1977, the Company explained that the source of the leachate at the dirt road at the southwest corner of their former dumpsite was a broken pipe, and stated that steps had been taken to correct the situation. (Exhibit I). Metropolitan indicated that "the water has been turned off and, barring heavy rains, the drainage should stop shortly." (Exhibit I). However, an Agency inspection on November 22, 1977 showed that some "leachate was observed to be flowing from the southwest part of the landfill into adjacent lowlands to the west of the landfill" and that final cover "along the west side of the landfill" had "not been adequately applied." (Exhibit J). Subsequently, on March 24, 1978, the Agency filed the Complaint in this case.

Since the filing of this Complaint, the Company has taken steps to appropriately cover its site. The firm has transported a considerable quantity of cover to the site and is currently preparing to spread and compact it. (R. 3).

As a result of discussion between the parties, a settlement proposal has been presented to resolve this enforcement proceeding. Metropolitan Disposal Company, Inc. has admitted that

two feet of compacted cover material was not applied to its refuse disposal site from June 7, 1976 through March 24, 1978. The settlement agreement provides that the Company will: (1) place final cover on the site by August 1, 1978; (2) grade and seed the covered areas to minimize erosion; (3) allow Agency employees to enter on the site at any time to observe the suitability of the cover material and Metropolitan's compliance with the settlement agreement; and (4) pay a stipulated penalty of \$400.00

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 Metropolitan Disposal Company, Inc. in violation of Rule 301 and Rule 305(c) of Chapter 7 from June 7, 1976 until March 24, 1978. The Board imposes the stipulated penalty of \$400.00.

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. Metropolitan Disposal Company, Inc. has violated Rule 301 and Rule 305(c) of Chapter 7: Solid Waste Rules and Regulations from June 7, 1976 until March 24, 1978.
2. Within 35 days of the date of this Order, Metropolitan Disposal Company, Inc. shall pay the stipulated penalty of \$400.00 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. Metropolitan Disposal Company, Inc. shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed June 14, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of July, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board