

ILLINOIS POLLUTION CONTROL BOARD
October 4, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 77-280
)
 CITY OF FAIRBURY, a municipal)
 corporation,)
)
 Respondent.)

MR. PATRICK J. CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. PAUL G. MASON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency (Agency) on October 31, 1977. An amended complaint was filed on February 9, 1978 alleging that Respondent has violated Rule 5.07(b) of the Department of Health's Rules and Regulations (Public Health Regulations) and hence Section 21(b) of the Environmental Protection Act (Act); and that Respondent has violated Rule 202(b)(1) of Chapter 7: Solid Waste Regulations (Chapter 7) and Section 21(e) of the Act and Rule 301 of Chapter 7 and Section 21(b) of the Act. A hearing was held in this matter on August 8, 1978 in Pontiac, Illinois. At that time a stipulated settlement was presented for Board approval.

The stipulated facts provide that Respondent owns the land in question and from May of 1967 to January 1969 operated a solid waste disposal site on the property. From August 1, 1969 until at least August 4, 1977 the Respondent had not applied a compacted layer of at least two feet of suitable material over the entire surface of the area of the site that had been used prior to and during January 1969. Respondent admits failure to cover is a violation of Public Health Rule 5.07(b) and Section 21(b) of the Act.

After July 14, 1976 but prior to September 30, 1976 and continuing until at least January 12, 1977 the Respondent operated a solid waste management site by depositing refuse on the site at a location north of the slope of the completed fill

which ceased operation in January 1969. Respondent has not at any time been issued an operating permit from the Agency for the operation of the solid waste management site. From sixty days after January 12, 1977 until at least August 4, 1977 the Respondent has not applied a compacted layer of not less than two feet of suitable cover material over the entire surface of area of operation. After August 4, 1977 Respondent applied a compacted layer of not less than two feet of suitable cover material over the entire surface of all areas that were used for dumping on the site.

No complaints have been received by the Agency about the site; however, the potential of leachate from this site seeping into the ground water exists. A system of monitoring wells is necessary to monitor the ground water.

The parties agreed the site had social and economic value as a solid waste management site. The site is no longer used for such purpose. Respondent does not plan to use the site in the future and thus the suitability of the site for solid waste management is not in dispute. It is technically practicable and economically reasonable to properly close and cover the site.

The settlement agreement provides that Respondent shall cease and desist operation of the solid waste management site until a proper operating permit is obtained. The City shall file a detailed description of the site, including a plat, with the appropriate county land authority for the County of Livingston as required by Rule 318 of Chapter 7. The City shall install two monitoring wells to sample the groundwater at locations designated by the Agency. The parties agreed that no penalty was necessary to aid enforcement of the Act.

The Board finds this stipulated settlement to be acceptable under Procedural Rule 331. The Board finds Respondent in violation of Rule 5.07(b) of the Public Health Regulations and Section 21(b) of the Act, Rule 301 of Chapter 7 and Section 21(b) and Rule 202(b)(1) and Section 21(e) of the Act. Respondent will be required to comply with the stipulated agreement. The City has indicated its willingness to comply with the regulations and has already taken steps to come into compliance (R. 5,6). No penalty shall be assessed.

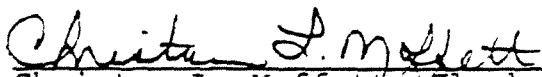
This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that:

1. The City of Fairbury is found in violation of Rule 5.07(b) of the Department of Health's Rules and Regulations and Section 21(b) of the Environmental Protection Act, Rule 301 of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act and Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act.
2. Respondent shall comply with all terms of the settlement agreement hereby incorporated by reference as if completely set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 4th day of October, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board