

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1978

CITY OF ROCK ISLAND, a)	
municipal corporation,)	
)	
Petitioner,)	
)	PCB 75-411
vs.)	75-433
)	76-31
STATE OF ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	(consolidated)
)	
Respondent.)	

MR. STEWART R. WINSTEIN OF WINSTEIN, KAVENSKY, WALLACE & DOUGHTY, APPEARED ON BEHALF OF THE CITY OF ROCK ISLAND.
MR. ARTHUR B. MUIR, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

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

This matter comes before the Board as a consolidation of three cases all involving the City of Rock Island and the Illinois Environmental Protection Agency (Agency). The first case arose as a variance petition, PCB 75-411, filed on October 20, 1975 seeking relief from Sections 12(a), 12 (d) and 21(e) of the Environmental Protection Act (Act) and several rules in the Chapter 7: Solid Waste Regulations (Chapter 7). The second case was an enforcement proceeding, PCB 75-433, filed by the Agency on November 7, 1975 alleging violations of Sections 12(a), 12(d), 21(b) and 21(e) of the Act, various rules from Chapter 7 and Rule 203(f) of the Board's Chapter 3: Water Pollution Regulations (Chapter 3). On January 31, 1976, a third case was filed, PCB 76-31, a permit denial appeal filed by Rock Island seeking review of the Agency's denial of an operating permit for the facility concerned in the prior cases. A public hearing was held on October 24, 1977. A stipulated settlement was presented at that time for Board approval. No testimony was given.

The stipulation provides the following facts. The facility in question is a refuse disposal site owned and operated by Rock Island. The facility, approximately 109 acres, is located at the intersection of 31st Avenue and Illinois Route 199. Refuse was first placed at this site between 1946 and 1948. The site was expanded in 1969 and received an operating permit from the Illinois Department of Public Health in January of 1970.

The site presently serves the cities of Rock Island and Moline and the Village of Milan for disposal of residential and municipal waste and private refuse haulers. The site, open 5 1/2 days per week, receives approximately 300,000 cubic yards of solid waste per year. There is no cover material readily available at the site; approximately one week's requirement of cover material is stored at the site; and cover material is obtained from a site 2.1 miles away.

The Agency has denied Petitioner a permit three different times. The basis of denial each time was essentially that the plans submitted were inadequate to protect ground waters from leachate and that inadequate provision was made to accumulate quantities of cover material on the site. Rock Island contends that the Agency was erroneous and incorrect.

The complaint filed by the Agency was concerned with inadequate cover, not depositing refuse at the toe of the fill, ponding leachate and several violations of the general water quality standards. Rock Island cites several defenses and/or mitigating circumstances in answer to the allegations.

Rock Island's variance request is based upon the lack of suitable alternative sites or the amount of increased travel to an alternative site. Petitioner feels that one site in particular is no more environmentally acceptable than its own. The Agency does agree that it would be prohibitively expensive to modify the existing site but does not agree with Petitioner's assessment of alternative sites.

The parties all agreed that all interests would be best served by settling these cases. The parties agreed that the proper method for resolving the differences between the parties and protecting the environment on a long term basis would be as follows. Rock Island should be granted a variance to allow it to accept refuse at its facility until October 15, 1978 subject to several conditions which include: Rock Island will apply appropriate cover; no liquid or hazardous wastes or sewage sludge will be accepted at the site other than Rock Island's own sewage sludge; the City shall operate monitoring wells; a new site will be found and available by October 15, 1978; the current site will receive proper final cover; and Rock Island will execute and forward to the Agency a certificate of acceptance and agreement. It was further agreed that the Board should order a permit for operation of the site. The permit shall allow acceptance of only general refuse from within the City of Rock Island; the volume shall not exceed 250 cubic yards per week.

The City admits violations of Rule 203(f) of Chapter 3 and Sections 12(a) and 12(d) of the Environmental Protection Act. The parties agreed that because of the great expense incident to the acquisition of land and development and operation of a new facility, and further because Rock Island will not be accepting refuse at the

existing site later than October 15, 1978, thereby abandoning said site with more than four years remaining capacity thereon the parties recommend no monetary penalty be assessed.

The variance is required from the permit requirements of Chapter 7 and Section 21(e) of the Act, and the requirements of Rule 203(f) of Chapter 3 to the extent those rules limit the concentration of ammonia nitrogen, boron, chloride, iron and total dissolved solids in the waters of the state. The stipulation notes that although violations are admitted no water supply of a municipality or individual is known to have been affected by the activities attendant to the operation of the site. The parties agree that upon a proper showing under the Act the variance may be extended by the Board.

The Board finds the stipulated agreement acceptable under Rule 331 of the Procedural Rules. The parties have considered all aspects of Section 33(c) of the Act. The Board agrees that a monetary penalty would not further aid the enforcement of the Act. The Board accepts the settlement and all the conditions thereof.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that:

1. The City of Rock Island is found to have violated Sections 12(a), 12(d) and 21(e) of the Environmental Protection Act as alleged in the complaint.

2. For the limited purpose of allowing (the present) operation of said site to continue until October 15, 1978 the City is hereby granted variance from Sections 12(a), 12(d) and 21(e) of the Environmental Protection Act, and from Rule 203(f) of the Water Pollution Rules for ammonia nitrogen, boron, chlorides, iron, and total dissolved solids and from Rule 202(b) of the Solid Waste Rules. Said variances to extend until October 15, 1978, on the condition that the City of Rock Island comply with all terms and conditions found in Paragraph 20 and 21 of the Stipulation and Proposal for Settlement.

3. The Agency is authorized to issue a permit for the operation of the site as set forth in paragraph 21 of the Stipulation and Proposal for Settlement.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 19th day of January, 1978 by a vote of 5-0.

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