

ILLINOIS POLLUTION CONTROL BOARD
September 15 , 1977

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-235
)
 JOHN MCGUIRE, DIRECTOR OF THE ILLINOIS)
 DEPARTMENT OF CONSERVATION; LANGHORNE)
 BOND, SECRETARY OF THE ILLINOIS DEPART-)
 MENT OF TRANSPORTATION; SOUTHWEST EXPRESS-)
 WAYS CORPORATION and FRANKLIN H. WEBER,)
)
 Respondents.)

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

This matter comes before the Board upon a complaint filed on September 23, 1976 by the People of the State of Illinois by the Attorney General of Illinois, William J. Scott. An amended complaint was filed on October 22, 1976. The amended complaint alleged that all Respondents were in violation of Sections 9(a) and 9(c) of the Environmental Protection Act (Act) and that two Respondents, the Illinois Department of Conservation (IDOC) and the Illinois Department of Transportation (IDOT) had violated reporting requirements of Sections 47(b) and 47(c) of the Act. On March 17, 1977 Respondents, Franklin H. Weber and Southwest Expressways Corporation (Southwest) were dismissed by the Board. At a hearing on May 17, 1977 a Stipulation and Proposal for Settlement was presented to the Board for its acceptance. No testimony was given at the hearing.

The stipulation provides an extensive history of the site going back to May of 1965. An on and off again lease between Southwest and the Illinois Department of Public Works (DPW) traces a history of illegal dumping at the site and consequently fires on the site. This lease agreement expired in 1970. Since that time fires have continued to be a problem at the site. The site has since 1965 been under the control of the Division of Waterways (in addition to ownership by DPW) now the IDOT. On January 1, 1974 ownership of the site was transferred to IDOC. The Environmental Protection Agency (Agency) has inspected the site on several occasions since July 1970. The site has never received proper cover. On March 3, 1976 the existence of a smoldering underground fire was noted. Since April 1, 1976 the IDOC has been consulting with the Agency on how to best

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eliminate the fire and put a permanent end to the recurring fires. After extensive efforts the fire was extinguished by November 8, 1976. IDOC further agreed to place a final cover of non-combustible material of two to four feet over the entire premises. In 1976 alone IDOC expended more than \$52,000 in its attempts to control the subsurface fires, exclusive of time spent by IDOC personnel and legal fees connected therewith.

IDOT and IDOC admit the alleged violations of Section 9(a) and 9(c) of the Act. They also admit violations of Section 47(b) and 47(c) of the Act and agree in the future to provide the reports required under these sections of the Act. Copies of these reports will be made available to the Attorney General's office, the Cook County State's Attorney's office, Cook County Department of Environmental Control for the next two reporting periods.

IDOC hereby agrees to take all measures feasible and exercise the utmost diligence to prevent anyone from abandoning, disposing or dumping refuse or any other waste materials upon the subject site. Such measures shall include, but not be limited to, the following:

- A. Construct fencing, gates, earthen berms or other artificial barriers to prevent entry of trucks onto the subject property.
- B. Post warning signs along the perimeter of the subject property such as "No Trespassing" and "No dumping under penalty of law, violators will be prosecuted".
- C. Institute a policy of prosecuting violators by referring all such matters to the Attorney General's office for prosecution.
- D. Make arrangements with State police, Cook County Sheriff, Cook County Department of Environmental Control, and local police to provide "spot checks" of the premises whenever they are in the area.

These measures are subject to similar reporting requirements as recited above.

Further agreements by IDOC include the development and implementation of a surveillance and monitoring program consisting of on site inspections and monitoring of the site

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with portable smoke detection instruments and combustible gas meters. A permanent log of these activities shall be kept and made available for inspection. IDOC also agrees that in the event a fire on the subject property is detected by the above surveillance and monitoring program immediate steps will be taken to extinguish the fire by methods set out in the stipulation or in the alternative a method suggested by the Agency and approved by the Attorney General's office. It is further agreed that IDOC agrees to compile a list of fire fighting units available in the area to combat surface fires on the subject property. This list will be submitted to the aforementioned agencies. These same agencies will be notified immediately when a fire is detected by telephone, followed by written confirmation of such communication. Such notifications shall cease after December 31, 1978. If there is threat of further violation of the Act, IDOC agrees to contact the individuals whose names and addresses are set out in the stipulation. IDOC further agrees to compact the material presently on the site to the maximum extent reasonably feasible prior to placement of new and additional material thereon. IDOC agrees to prepare and develop an engineering plan and schedule for the placement of final cover. Such cover is to be placed as soon as the weather and regulatory requirements reasonably permit. Such cover shall be seeded or such other measures taken as to minimize moisture loss and drying out of the cover. It is also agreed that IDOC will take appropriate measures to minimize surface and fire protection water run-off from the subject property. Earthen berms may be constructed for this purpose. Most of these conditions are dated to within 45 days after the filing of this settlement with the Board.

The Board finds this settlement to be acceptable under the Board's Procedural Rule 331. The Board does find the IDOC and IDOT in violation of Sections 9(a), 9(c), 47(b) and 47(c) of the Act. The stipulation does not discuss a penalty; however, considerable evidence concerning the factors of Section 33(c) of the Act was presented. Considerable sums of money and working hours have been spent in the attempt to put out the fires and will have to continue to be made to bring the site into compliance. Considering all the factors involved the Board finds that no penalty is necessary.

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 Illinois Department of Conservation and the Illinois Department of Transportation are found

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to have violated Sections 9(a), 9(c), 47(b) and 47(c) of the Environmental Protection Act.

2. The settlement proposed by the parties is accepted by the Board subject to the conditions set out more fully therein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of September 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

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