

ILLINOIS POLLUTION CONTROL BOARD  
April 28, 1977

ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
	)	
Complainant,	)	
	)	
	)	
v.	)	PCB 76-281
	)	
	)	
SANITARY DISTRICT OF ROCKFORD,	)	
an Illinois municipal corporation,	)	
	)	
	)	
Respondent.	)	

Ms. Susan Shumway, Assistant Attorney General, appeared on behalf of Complainant;  
Mr. H. Emmett Folgate and Mr. James Russell, appeared on behalf of Respondent.

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

This matter is before the Board upon the Complaint of the Illinois Environmental Protection Agency (Agency) filed November 4, 1976, against the Sanitary District of Rockford (Sanitary District) alleging violation of Rule 103(b)(2) of the Board's Air Pollution Regulations and Section 9(b) of the Environmental Protection Act (Act) in that it operated incinerators without an operating permit issued by the Agency. Hearing was held in this matter on March 7, 1977, at which a Stipulation and Proposal for Settlement was filed with the Board. There was no citizen testimony at the hearing, and no public comment has been received by the Board.

The Sanitary District owns and operates a sewage treatment plant located in Rockford, Winnebago County, Illinois, providing sewage

disposal service for an area of approximately 38,000 acres and for a population of approximately 200,000 persons. At this facility the Sanitary District has three multiple hearth sludge incinerators which are existing emission sources within the definition of Rule 101 of the Illinois Pollution Control Board Rules and Regulations, Chapter 2: Air Pollution (Regulations). After being denied an operating permit by the Agency, the Sanitary District filed a Petition for Variance with the Board on January 24, 1975, alleging in effect that its incinerators should be subject to Rule 203(e)(3) of the Regulations and not Rule 203(e)(2) as contended by the Agency. The Board disagreed and on March 6, 1976, denied the Sanitary District's Petition in PCB 75-32. The Sanitary District then filed a Petition for Review of the Board's denial of its variance request in the Appellate Court of Illinois, Second Appellate District No. 76-273, which proceeding is still pending.

In the Stipulation filed at the March 7, 1977 hearing herein, the Sanitary District admits having operated its incinerators on numerous occasions since April 1, 1973 without an operating permit issued by the Agency. Subsequent to the Board's denial of its Variance Petition, the Sanitary District investigated alternate methods of disposal and concluded that landfill is the most cost effective, technically feasible, and economically reasonable method for disposal of the Sanitary District's sludge. On February 1, 1977 the Sanitary District entered into contracts for disposal of the sludge, which expire on April 30, 1978. Soon thereafter the Sanitary District shut down the incinerators, which remain available for emergency use. In consideration of the settlement of this case, the Sanitary District agrees to landfill its sludge either by contract or by acquisition of its own landfill site.

The parties stipulate that it would cost over \$600,000.00 for the Sanitary District to bring its incinerators into compliance with Rule 203(e)(2) of the Regulations and they agree that it would not be economically reasonable for the Sanitary District to obtain operating permits in light of its decision to dispose of its sludge by landfill. The parties stipulate that the interest of the public and the parties hereto would best be served by the settlement of this enforcement proceeding without further litigation since the decision to landfill the sludge has rendered the issue herein moot.

The parties stipulate that the Sanitary District shall continue to landfill its sludge and shall operate its incinerators for disposal of its sludge only if that method of disposal becomes necessary due to circumstances beyond the control of the Sanitary District and only

if the Agency agrees that the use of the incinerators is necessary. As of April 30, 1978, the Sanitary District agrees to permanently cease use of its incinerators. The Sanitary District agrees to move to dismiss cause No. 76-273 now pending in the Appellate Court of Illinois, Second Appellate District, without prejudice, within 30 days of the approval of the Stipulation by the Board.

The Board finds the Settlement to be a suitable resolution of the enforcement proceeding herein. Under enforcement pressure by the Agency and the Board, the Sanitary District has developed an environmentally sound and potentially less expensive method of disposing of its sludge. The Board can find no reason to continue this litigation and agrees that, under the circumstances in this case, a penalty would serve no useful purpose.


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 Sanitary District of Rockford is found to have violated Rule 103(b)(2) of the Board's Regulations and Section 9(b) of the Environmental Protection Act in that it has operated its incinerators without an operating permit issued by the Agency since April 1, 1973.
2. The Sanitary District of Rockford shall comply with the terms and conditions of the Stipulation and Proposal for Settlement filed by the parties herein on March 7, 1977, which Stipulation is hereby incorporated in this Order 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 28<sup>th</sup> day of April, 1977 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board