

ILLINOIS POLLUTION CONTROL BOARD
July 22, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 76-68
)
)
 BARRETT LANDFILL, INC., an)
 Illinois corporation,)
)
 Respondent.)

Mr. Richard W. Cosby, Assistant Attorney General, appeared on behalf of Complainant

Mr. Thomas Feehan, Thomas, Wallace, Feehan and Baron, Ltd., appeared on behalf of Respondent

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

This matter comes before the Pollution Control Board (Board) upon the March 5, 1976 Complaint of the Environmental Protection Agency (Agency) alleging that Barrett Landfill, Inc. (Barrett) violated Rules 302 and 317 of the Board's Solid Waste Regulations thus constituting a violation of 21(b) of the Environmental Protection Act (Act). More particularly, Respondent is charged with failure to comply with Condition No. 5 of its operating permit which states:

A quarterly ground water monitoring program is to be initiated and maintained as follows:

(a) The Gilliland and Sontag wells are to be sampled and analyzed each quarter (January, April, July and October) for TDS, SO₄ Cl. (sic) Results should be forwarded to this office.

(b) Upon completion of trench #10, monitoring of shallow wells #1 through #4 (for Fe, COD and TDS) should proceed on a rotational basis with well #1 sampled the first quarter, well #2 the second, etc.

Rules 302 and 317 of the Solid Waste Regulations state:

Rule 302: Compliance with Permit

All conditions and provisions of each permit shall be complied with.

Rule 317: Operating Records

Every holder of an operating permit shall submit to the Agency, Division of Land Pollution Control on or before the 15th day of January, April, July and October, the water monitoring data required by permit.

A hearing was held May 24, 1976 in Joliet, Illinois. At that hearing, Barrett admits violating paragraph (a) of Condition No. 5 (R.6). However, trench #10 is not completed and therefore paragraph (b) of Condition No. 5 is not operative.

Barrett operates a refuse disposal site located in Will County, Illinois. It received an operating permit on January 7, 1975. Barrett hired Geotech, Inc., an engineering firm, to perform the well monitoring. Geotech subcontracted the well monitoring to Arro Laboratories, Inc. (R.18-19). Although some reports were sent in early 1975, the data contained therein did not adequately identify the sources monitored (R.22-26). Barrett is currently operating in compliance with its permit conditions.

The Board finds the violations as alleged except as to Section 21(b) of the Act. Violations of permit conditions including the requirement of periodic reports constitute violations of Section 21(e) rather than 21(b). Therefore that portion of the Complaint will be dismissed.

While Respondent believed that the reports would be submitted by its sub-contractor, this does not relieve Respondent of its duty to strictly comply with permit conditions. The fact that Respondent is now in compliance demonstrates

that compliance was technically practicable and economically reasonable. The purpose of the condition violated is to maintain surveillance upon contaminant levels in ground water underneath the fill to determine if leachate is entering the ground waters (R.11). The social and economic value of the source is unquestioned; the degree of injury to the public welfare was slight. However, without monitoring, leachate could enter the ground water without the State's knowledge and could cause considerable damage before it was noticed. In order to protect the integrity of the permit system a penalty of \$250.00 is appropriate.

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

ORDER

It is the Order of the Board that:

1. Barrett Landfill, Inc., is found to have violated Rule 302 and 317 of the Solid Waste Regulations and failed to comply with Condition 5(a) of its operating permit.

2. Within 35 days of the date of this Order Respondent shall pay as a penalty for said violations the sum of \$250.00 by certified check or money order to:

State of Illinois
Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

3. The alleged violation of section 21(b) of the Act is dismissed.

4. Respondent shall cease and desist from said violations.

5. Respondent shall file with the Agency, within 30 days of the date of this Order, a statement indicating which wells are being monitored as the East and West well respectively, with a copy of said statement being directed to its sub-contractor.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22nd day of July, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board