

ILLINOIS POLLUTION CONTROL BOARD
January 20, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 75-327
)
MAL LANDFILL CORPORATION, a)
foreign corporation,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by Mr. Young):

This matter has been submitted to this Board on a Stipulation and Proposal for Settlement. The Board finds the Stipulation inadequate for failure to comply with Procedural Rule 333. The Stipulation is completely silent relative to Counts I, III and IV of the Complaint; this inadequacy must be remedied. As to Count II, which is discussed, some clarification of the facts is necessary. The Stipulation (p. 3, par. 5) provides that Mal believed it was allowed to accept wastes in barrels despite the continuous contrary warnings of the Agency that a supplemental permit was first required and Rule 310(b) plainly prohibits such activity. Mal has not adequately explained how this belief could have been reasonably maintained in view of the Agency warnings and Rule 310(b), particularly when no motion for clarification of the Board's prior Order in PCB 72-485 had been filed.

The Stipulation (p. 6, par. (b)) provides that the Board shall revoke all existing permits and the Agency will thereupon issue new permits for the site. The Stipulation is silent as to what is to be accomplished by this procedure, and the reason for it.

Since the Stipulation (p. 7, par. (e)) provides Mal temporary relief from our final cover requirements, the parties must explain why this relief is necessary, and particularly, since there already appears to be a problem with ground water contamination.

The Stipulation contains many references to the fact that some ground water contamination has been discovered at the site. Detailed facts concerning this problem are not included in the Stipulation. Because acceptance of this Stipulation might constitute res judicata and preclude the Board from entering additional orders concerning this specific site in the future should the ground water contamination become a more severe problem, the Board is most reluctant to accept this settlement unless the Board is expressly granted continued jurisdiction over this matter.

The Stipulation is remanded to the Hearing Officer and the parties for further consideration in accordance with the views expressed herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 20th day of January, 1977 by a vote of 5-0.

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