

ILLINOIS POLLUTION CONTROL BOARD  
February 11, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-391  
 )  
 MACON COUNTY LANDFILL CORPORATION, )  
 a Delaware Corporation, )  
 )  
 Respondent. )

Mr. Fredric Benson, Assistant Attorney General, appeared for  
the Complainant;  
Mr. Norman J. Fombelle, Attorney, appeared for the Respondent.

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

This matter is before the Board on an Enforcement Complaint against Respondent Macon County Landfill Corporation (Macon), filed by the Environmental Protection Agency (Agency) on October 10, 1975, alleging various violations of the Environmental Protection Act (Act), the old Rules and Regulations for Refuse Disposal Sites and Facilities, and Chapter 7: Solid Waste of the Pollution Control Board's Rules and Regulations. A hearing was held on December 3, 1975 in Decatur, Illinois, at which time the parties submitted a Stipulation of Facts and Settlement Proposal which forms the basis of this Opinion and Order. The only additional matters in the record are the testimony of various citizens at the Decatur hearing, and a document filed by a group of citizens residing in the general area of the solid waste management site in question objecting to the stipulated penalty in the Settlement Proposal.

The Complaint in this matter alleges a number of violations during the period 1970-1975. The Complaint alleges that on many specific dates during that period, Respondents operated a 40-acre landfill site in such a manner as to violate virtually all of the applicable requirements of the Act, the old Department of Health Rules, and this Board's Regulations. Respondents admit by stipulation to all of the violations alleged.

In addition to an admission of the violations, the Stipulation in this matter contains a listing of 29 dates on which the Agency inspected Respondent's landfill site; following 21 of those inspections, the Agency sent Respondent letters detailing defects noted during the inspections. The first of those letters was sent by the Agency on September 10, 1970, and the most recent on July 28, 1975.

Respondent's site is centrally located in Macon County, close to the banks of the Sangamon River and its backwaters. It accepts approximately 90-95% of the refuse generated in Macon County -- approximately 1,200 cubic yards daily. Based on the present amount of refuse being received at Respondent's site, it is estimated that the site has no more than six months of useful life remaining. The site began operation in 1965, and has operated six days a week since July 1, 1970.

Before the Complaint in this matter was filed, Respondent began a program to abate the violations alleged in the Agency's Complaint. Commencing in July, 1975, Respondent hauled and applied 92,520 cubic yards of dirt to remedy the most serious of these violations, the lack of proper cover, at a total cost of \$63,142.75. With the exception of the permit violation, all of the above violations had been remedied by the time of the hearing held in this matter on December 3, 1975.

The Agency indicates that it would normally insist on a larger penalty in a case involving the quantity and type of violations admitted to here. However, based on Respondent's voluntary program to abate the violations, started three months before the Complaint was filed, and the completion of that remedial program, the Agency has stipulated to a penalty of \$1,200.00 for the admitted violations here. The Agency feels that the penalty of \$1,200.00 will be sufficient to aid in enforcing the Act, and in deterring Respondent from committing future violations in its continued operation of the site.

We find that the Stipulation and Proposed Settlement in this matter will serve as an aid to enforcement of the Act and our Regulations. Further comments are, however, in order.

Various matters raised by private citizens, both at the hearing on December 3, 1975, and in additional documents submitted on December 15, 1975, as well as certain facts stipulated to by the parties hereto, raise questions concerning the adequacy of the proposed settlement in this matter.

One citizen at the hearing, (R.18-20), raised the question of the suitability of Respondent's site, which abuts the Sangamon River. This is borne out in paragraph C(4)(c) of the Stipulation, (at p.5), which states that leachate has been observed ponding on portions of this site, and that surface flows of leachate have been observed entering the backwaters of the Sangamon River. That paragraph also states, however, that there is no "conclusive proof" that leachate has entered the ground water beneath the site or the Sangamon River itself.

Another issue raised by citizens is the adequacy of the penalty stipulated to.

We have accepted the Stipulation in this matter based on three factors:

1. Respondent's efforts to date, approved by the Agency in the Stipulation, have resulted in complete compliance at this site, except for the issuance of a permit.
2. The fact that only six months useful life remains for this site.
3. The fact that the Stipulation and Proposed Settlement in this matter concerns itself only with past violations, and in no way constitutes settlement of any future violations at this or any other site.

The citizens' objections, and the Stipulation itself, do raise questions as to the suitability of the site for landfill purposes. However, Respondent has already taken significant steps which should aid in preventing the migration or flow of leachate into the Sangamon River. We are concerned only with this site; as regards any possible use of adjacent land by Respondent, we may rely on the permit system to assure the propriety of any such site for solid waste disposal. We can and must rely on the Agency to deny any permit where there is indication that, because of proximity to a river, the types or permeability of underlying soil, operation of such a site would cause a violation of the Act or our Regulations. Our concern here is to assure ourselves that any past violations on this specific site are remedied and will not be repeated. Our Opinion and Order here provides no protection for Respondent, should a previous poor choice of location, the lack of a permit, or improper method of operation cause pollution of the Sangamon River or nearby subsurface water strata. On the limited facts before us, the Stipulation and Proposed Settlement are adequate.

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. Respondent Macon County Landfill Corporation, a Delaware Corporation, is found to have violated the Environmental Protection Act, the Department of Public Health Rules and Regulations for Refuse Disposal Sites and Facilities, and the Pollution Control Board Rules and Regulations, Chapter 7: Solid Waste, as detailed in the foregoing Opinion.

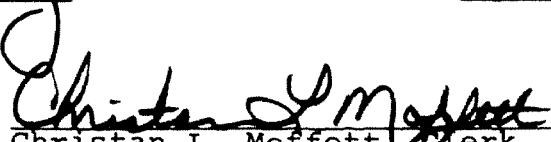
2. Respondent shall pay as a penalty for the foregoing violations the sum of Twelve Hundred Dollars (\$1,200.00), payment to be made within thirty (30) days from the date of this Order by certified check or money order to:

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

3. Respondent shall, unless all appropriate permits are received from the Environmental Protection Agency within 120 days of the date of this Order, cease and desist all refuse disposal operations at the site in question.

Mr. Irvin Goodman dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 11<sup>th</sup> day of February, 1976 by a vote of 3-1.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board