

ILLINOIS POLLUTION CONTROL BOARD

October 25, 1973

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 71-243  
 )  
 HARRY A. CARLSON, )  
 )  
 Respondent. )

INTERIM ORDER OF THE BOARD  
ON RESPONDENT'S MOTION FOR EXTENSION OF TIME (by Mr. Henss)

On August 18, 1971 the Environmental Protection Agency commenced a prosecution against Harry A. Carlson, the operator of a landfill at Palos Hills, Cook County, Illinois. It was alleged that Respondent had violated various provisions of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities. The Complaint included claims that the landfill caused air pollution by emitting foul odors and caused water pollution by the flow of leachate from the landfill site. The parties arrived at a settlement and plan of abatement which was then approved by this Board. Respondent was fined for causing air pollution but the Agency withdrew the allegations of water pollution. This withdrawal of the prosecution for water pollution was in consideration of Respondent's agreement to redesign the landfill in a manner so as to prevent water pollution and to monitor ground water quality. The parties agreed that the slope of the land would be changed in order to alter the flow of water in the area of the landfill and that completed portions of the landfill would be covered by 2' compacted layers of impermeable clay capped with a 1' layer of humus material to support vegetation. The Stipulation provided that Respondent would complete this work by the "fall of 1973", but the Board in its Order specified that the new slope should be established and cover should be applied by September 26, 1973.

Respondent now requests an extension of time to complete the site, i.e. complete the final slope and apply the final cover. (Respondent's first pleading also listed two other requests:

1. A Board finding that Respondent is in full compliance with the Board Order. This approach has now been abandoned, apparently because Respondent is obviously not in full compliance.
2. A variance authorizing operations until completion of the final slope and application of final cover. Respondent has also abandoned this approach. To the extent the pleading could be construed as a variance petition we dismiss it without prejudice since it does not comply with our Procedural Rules.)

The only request pending is for an extension of six months to one year for compliance with our Order of September 26, 1972.

The Agency has not yet replied to the substance of Respondent's request since it was unclear what Respondent was requesting. We direct the Agency to file its response within 14 days of this Order. The Agency response should include: a discussion of the appropriate procedure for requesting additional time to comply with orders in prosecution cases; a discussion of the rights of the parties where prosecution was withdrawn in reliance upon a certain time schedule for abatement of pollution; a discussion of the degree of compliance with our September 26, 1972 order and reasons for any noncompliance; a recommendation regarding future action necessary to achieve compliance; a recommendation for further proceedings herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted this 22<sup>nd</sup> day of October, 1973 by a vote of 5 to 0.