

ILLINOIS POLLUTION CONTROL BOARD

March 15, 1973

CITY OF DANVILLE,)
)
 Petitioner,)
)
 vs.) PCB 72-335
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

Larry Lessen, Attorney for Petitioner
Delbert Haschemeyer, Assistant Attorney General for the EPA

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

Petitioner City of Danville makes several requests for variance in the operation of its landfill. The principal request is for extension of a variance we granted in PCB 71-282 allowing Petitioner a six month period ending June 9, 1972 to apply final cover to a portion of its landfill known as the "old site". The entire tract consists of 56 acres. Thirty-one acres previously used as a landfill (the old site), have been closed since April 23, 1971. Fifteen acres not previously used (the new site) have been developed for landfill operations more recently under a contract the City obtained with H & L Disposal Company.

In 1971 the City of Danville represented that immediate close out and covering of the old 31 acre site would cost \$89,000 whereas the program contemplated by them for the application of cover within a period of six months would be accomplished without any additional cost to the City. The record in 1971 indicated that leachate emanating from the old landfill area ultimately entered the Vermilion River but under all of the circumstances we felt the six month time schedule for the application of final cover was reasonable.

In August 1972, one month after the variance had expired, the City of Danville filed its petition requesting extension. Subsequently, the Petitioner filed an amended petition and waived the requirement that ruling be made by the Board within 90 days.

Petitioner contends that the failure to meet the original June 9, 1972 deadline was due to exceptionally wet weather, a breakdown in "internal communications" and a 25 day strike by municipal employees in May 1972.

Our conclusion from a review of the record, however, is that Danville simply did not make a serious effort to meet the six month deadline. Rainfall during May 1972 was 2.36 inches less than normal. During that month H & L Disposal Company did not apply final cover at the old site because it was allocating all of its efforts to the operation of the new 15 acre landfill site. The total rainfall for May, June, July and August 1972 actually was slightly less than normal. The "internal communications" problem of the municipality and a 25 day strike by municipal employees who were not involved in the landfill operation could hardly constitute justification for a one year delay in meeting the Standard.

The City of Danville has applied final cover to much of the area but should take immediate steps to complete this project. Petitioner contends that denial of the variance extension would impose an unreasonable and arbitrary hardship upon the City because of the estimated \$9,000 cost of coming into compliance immediately. We regard this as a self-imposed hardship since the municipality has failed to pursue that course which it earlier represented would bring it into compliance during 1972. According to the record the necessary additional manpower and equipment was not made available until September 1972. (R. 16, 68) We deny the request to extend the variance.

Other requests by the Petitioner, however, will be allowed. The EPA recommends that Petitioner and the H & L Disposal Company be permitted to take those steps outlined in a supplemental permit granted by the Agency on October 24, 1972 which modify the planned use of the 56 acre tract. This modification is partly due to earlier error in mapping the site. The Petitioner and the Agency have reached agreement on specific changes regarding trenching and the filling of low areas and ravines, and these agreements will be incorporated in the Order.

ORDER

It is ordered that:

1. Petitioner's request for a variance extension of one year for the purpose of applying final cover to the "old site" 31 acre tract is denied.
2. Petitioner's request for a variance is allowed to the following extent:

- a) The EPA supplemental permit of October 24, 1972 is approved and the authorizations incorporated therein are included as a part of the variance.
- b. Petitioner shall be permitted to excavate a drainage ditch through the southwest corner of the old landfill site. Upon completion of water drainage, Petitioner will fill the drainage to grade level only with proper landfill cover material. Petitioner will be permitted to fill in low spots at the old landfill site with an accumulation of burned and exposed refuse material which is then to receive proper final cover. The area presently containing the burned and exposed refuse is to be properly graded and is not to be used for refuse disposal. Petitioner will be permitted to fill in a ravine located at the old landfill site but only with proper final cover material.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 15th day of March, 1973 by a vote of 4 to 0.

Christan L. Moffett

