ILLINOIS POLLUTION CONTROL BOARD July 25, 1972

ENVIRONMENTAL PROTECTION AGENCY)	
V •)))	PCB 72-100
CITY OF NASHVILLE)	

Thomas J. Immel for the Environmental Protection Agency Clarence DeMoss for the City of Nashville

Opinion and Order of the Board (by Mr. Aldrich):

The Environmental Protection Agency filed a complaint March 14, 1972. against the City of Nashville, Washington County, Illinois, for improper operation of a sanitary landfill. The complaint alleged that Respondent was guilty of several violations of the Environmental Protection Act or of Rules and Regulations for Refuse Disposal Sites and Facilities: 1) causing or allowing open burning on 12 dates between July 13, 1970 and January 28, 1972 [Sec. 9(c) of the Act and Rules 3.05 and 5.12(d)]; 2) threatening or allowing discharges so as to cause water pollution on 4 dates from April 28, 1971 to January 28, 1972 [Sec. 12(a) of the Act]; 3) depositing refuse in standing water on 4 dates from April 28, 1971 to January 28, 1972, [Rule 5.12(c)]; 4) failing to properly cover refuse on 5 dates from July 8, 1971, to January 28, 1972 [Rule 5.07 (a)]; and 5) open dumping of garbage and refuse on 6 dates from April 28, 1971, to January 28, 1972 [Sec. 21(a) and (b) of the Act and Rule 3.04].

On July 3, 1972, the Parties submitted a STIPULATION and suggested conditions for a settlement in lieu of a public hearing. The Agency agreed to withdraw the allegation of threatening to cause water pollution by the discharge of contaminants, item 2 in the above paragraph. The City agreed that allegations 1, 3, 4, and 5 in the above paragraph were true and uncontested. Respondent is considering alternative means of disposal and agrees to report the results of its deliberations within 120 days. In the meantime, Respondent agrees to abide by a cease and desist order. The City is agreeable to posting a performance bond. The Parties leave the question of penalty to the discretion of the Board.

This Board is on record as favoring a reduction in time and expense of litigation whenever it is possible to arrive at an equitable settlement which serves the purpose of the Environmental Protection Act without a hearing. (See EPA v. Charles R. Rhodes, PCB 71-53, September 16, 1971; EPA v. Custom Farm Services, Inc. PCB 71-312, September 21, 1971; EPA v. Solid Waste Disposal Company, PCB 71-236, February 3, 1972; and EPA v. Russell, Burdsall & Ward Bolt and Nut Co. PCB 71-369, June 27, 1972).

This is another case in which the proposed settlement, if accepted, offers no opportunity for public comment. The Parties state in the STIPULATION that neither has been contacted by the public expressing an interest in a public hearing. We do not know whether this is because of unconcern or because the citizens are unaware of the proposed settlement. The Board will soon propose a change in its Rules which will establish a procedure more in keeping with the intent of the Act which was to assure an opportunity for public comment in the hearings. The instant case is relatively minor in terms of environmental impact or potential nuisance. The proposed terms are reasonable and will be effective. We shall accept them and assess an appropriate penalty for past violations.

ORDER

- 1. The City of Nashville shall diligently pursue an alternative means for disposal of its refuse and report progress to that end to the Board no later than November 25, 1972.
- The City of Nashville shall cease and desist from violations of the Act and Rules and Regulations for Refuse Disposal Sites and Facilities.
- 3. The City of Nashville shall post a \$1000 performance bond with the Environmental Protection Agency to be forfeited in case the City fails to adhere to any of the conditions of this Order.
- 4. The City of Nashville shall pay a penalty of \$250 to the State of Illinois and send same to the Environmental Protection Agency, Fiscal Services Division, 2200 Churchill Road, Springfield, Illinois 62701

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted this day of July, 1972, by a vote of 4 to 0.

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