

ILLINOIS POLLUTION CONTROL BOARD  
June 27, 1972

City of Rockford )  
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 v. ) PCB 72-115  
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 )  
 Environmental Protection Agency )  
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William E. Collins, Esq., Legal Director, for the City of Rockford  
Lee A. Campbell, Assistant Attorney General for the Environmental Protection  
Agency

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

This case is now before the Board on a petition for an extension of the original variance. The original petition for variance was granted for 120 days in a Board opinion dated January 6, 1972 (PCB 71-311). The conditions of that variance were as follows:

- "1. Before refuse is deposited, the bottom of the pit shall be graded, and fill material acceptable to the Agency shall be placed in order to preclude the dumping of solid waste into water; and
2. The cover material for this operation shall be approved by the Agency before refuse is deposited; and
3. Final contours and elevations shall be submitted to the Agency for approval before refuse is deposited; and
4. In all respects except as noted in this order, the City shall conform to the Rules and Regulations in the operation of the landfill; and
5. The City shall diligently seek an acceptable long-term solution to its solid-waste problem and shall file monthly progress reports with respect to its efforts to achieve such a solution; and

6. The City shall within 60 days after receipt of this order submit to the Agency and to the Board a report regarding methods of preventing leaching to the waters after dumping is terminated, at which time the Board will take such further action as may be appropriate."

The instant petition for variance was filed with the Board on March 27, 1972. The petition requested a hearing and an extension of the original variance to June 15, 1972. A hearing was held on May 12, 1972. Inasmuch as the requested date of June 15 has already passed, we find it unnecessary to rule upon the merits thereof at this time.

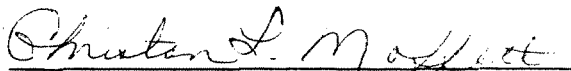
It is most disappointing, however, to note that the City has not complied with the aforementioned conditions of the January 6 order of this Board according to the Agency statement. The receiving of a variance is not a matter of right. It is merely a privilege which carries with it certain serious responsibilities on the part of the petitioner. In this case we feel that the City has not met its responsibilities as enumerated in the conditions of the January 6 order. As of June 16, 1972, the City has become susceptible to any appropriate enforcement action which the Agency may initiate against it.

This opinion constitutes the Board's findings of fact and conclusions of law.

#### ORDER

It is hereby ordered that the petition for an additional variance be and hereby is dismissed for mootness.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted by the Board on the 27 day of June, 1972 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board