

ILLINOIS POLLUTION CONTROL BOARD
January 18, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-169
)
VILLAGE OF MOWEAQUA,)
a municipal corporation,)
)
Respondent.)

MR. BRIAN REYNOLDS, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. EDWIN JOKISCH, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the June 13, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that, from February 4, 1976 until the filing of the Complaint, the Village of Moweaqua operated its solid waste management site (the "site") without an Operating Permit issued by the Agency in violation of Rule 202(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that, from February 4, 1976 until the filing of the Complaint (including, but not limited to, the dates of February 4, 1976, September 13, 1976, and November 8, 1976), the Respondent failed to apply the requisite daily cover material on all exposed refuse at the site in violation of Rule 301 and Rule 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. Count III of the Complaint alleged that, from April 6, 1976 until the filing of the Complaint (including, but not limited to, the dates of April 6, 1976, September 13, 1976 and November 8, 1977), the Village of Moweaqua allowed the open burning of refuse (including landscape waste not generated at the site) at the property in question in violation of Rule 502(a) of Chapter 2: Air Pollution Control Regulations and Section 9(c) of the Act. A hearing was held on November 14, 1978. The parties filed a Stipulation and Proposal for Settlement on November 16, 1978.

The Village of Moweaqua is a municipal corporation duly formed under the laws of the State of Illinois. The Respondent owns property consisting of approximately 20 acres located in Christian County, Illinois. Until May of 1974, the Respondent leased out this property to be used as a solid waste management site. However, neither the Respondent nor its lessees had a permit from the Agency to operate a solid waste management site. (Stipulation, p. 2).

In May of 1974, operations were ceased at the site, the lease was discontinued, and cover was placed over a majority of the area. On February 4, 1976, April 6, 1976, September 13, 1976, July 11, 1977, and November 8, 1977, inspections of the site by Agency field investigators revealed that tree trunks, limbs, and brush had been dumped on the site. On November 8, 1977, an inspection of the property by Agency field investigators revealed that demolition wastes had also been dumped on the site. (Stipulation, p. 3). On February 4, 1976, September 13, 1976, and November 8, 1977, inspections by Agency field investigators revealed that daily cover had not been placed over the refuse on the site.

It is stipulated that the Respondent has never possessed an Agency permit for the operation of this solid waste management site. The Village of Moweaqua has received numerous letters from the Agency informing them of the lack of permit for the site and/or the lack of adequate cover on the site. (Stipulation, p.3). The Village of Moweaqua states that the site was closed to public use in early 1974, and that, outside of the emergency storage of tree limbs due to storm damage in March or April of 1978, all other storage of refuse was without their consent. (Stipulation, p. 3-4). It is also stipulated that the site is no longer in operation and the Respondent does not plan to use the property in the future. (Stipulation, p. 4; Record, p. 6).

The proposed settlement agreement provides that the Respondent (i.e., the Village of Moweaqua): (1) admits the allegations charged in Count I and Count II of the Complaint, in that it did cause or allow the use of a solid waste management site without an Operating Permit issued by the Agency, and that it failed to apply a compacted layer of at least six inches of suitable material on all exposed refuse at the end of each day of operation in violation of Rules 202(a), 301, and 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Act; (2) agrees to cease and desist from further violations of the Act and the Board's Regulations; and (3) agrees to pay a stipulated penalty of \$100.00 .

Moreover, it is further agreed that it is technically practicable and economically reasonable to properly close and cover the site. After the date of filing of the Complaint, the Respondent applied the requisite final cover to the site (i.e., at least two feet of suitable cover material has already been applied over the entire surface of the area of operation at the solid waste management site). (Stipulation, p. 4-5).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board finds that the Respondent, the Village of Moweaqua, has violated Rules 202(a), 301, and 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Illinois Environmental Protection Act from February 4, 1976 until June 13, 1978. All other allegations of violations are hereby dismissed. The Board hereby imposes the stipulated penalty of \$100.00 against the Respondent.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, the Village of Moweaqua, has violated Rules 202(a), 301, and 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Illinois Environmental Protection Act from February 4, 1976 until June 13, 1978.
2. The Respondent, the Village of Moweaqua, shall cease and desist all further violations.
3. Within 45 days of the date of this Order, the Respondent, the Village of Moweaqua, shall pay the stipulated penalty of \$100.00 , payment to be made by certified check or money order to:

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

4. The Respondent, the Village of Moweaqua, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed November 16, 1978, which is incorporated by reference as if fully set forth herein.
5. All other allegations of violations are hereby dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18th day of January, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board