

ILLINOIS POLLUTION CONTROL BOARD
March 29, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-172
)
 CITY OF HANOVER, a municipality)
 and PATRICK FARRELL, an individual,)
)
 Respondents.)

MS LORETTA WEBER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. WILLIAM KELLY, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed on June 20, 1978 by the Environmental Protection Agency (Agency) alleging that the City of Hanover, Jo Daviess County, owns a solid waste management site on the SW 1/4 of the SW 1/4, Section 16, Township 26 North, Range 2 East of the Fourth Principal Meridian and that Patrick Farrell is and at all times pertinent hereto has been operator of the site. The complaint further alleges violations of Rules 301, 305(a), 305(b), 305(c), 303(a), 303(b), 314(c) of the Chapter 7: Solid Waste Regulations (Chapter 7) and Section 21(b) of the Environmental Protection Act (Act); Rule 302 of Chapter 7 and Section 21(e) of the Act; Rule 502(a) of Chapter 2: Air Pollution Regulations (Chapter 2) and Section 9(c) of the Act; and Section 21(a) of the Act. A hearing was held on December 7, 1978 at which time a stipulated agreement was presented for Board approval.

The stipulated agreement provides the following facts. Respondent, City of Hanover, owns the site in question and has been issued a development permit numbered 1974-84-DE on October 3, 1974 and an operating permit numbered 1974-84-OP on February 11, 1975 for the site. Patrick Farrell is the sole operator of the site. He leases the land from the City of Hanover.

From September 10, 1975 to March 7, 1978 Agency inspectors visited the site on numerous occasions noting violations. The parties agreed that the sole injury to, or interference with the protection of the health, general welfare and physical property of the people is as outlined in the violations at the site. The parties agree that it is technically feasible and economically reasonable to operate the site in compliance.

The terms of the settlement provide that Respondents are jointly and severally liable for implementing the agreement. Respondents admit all violations alleged in the complaint. Respondents agree to cease and desist further violations of the Act and Regulations. The site will be finally closed and covered in conformance with Rule 305(c) of Chapter 7 within thirty days of this Order. Refuse will not be accepted at the site after November 1, 1978. Respondents agree to monitor the site for gas, water and settling for three years after closure of the site and take whatever remedial action is necessary. Respondents agree to take measures to prevent erosion and will apply seed by no later than June 1, 1979. Respondents will file a final plat with the Agency and the County Recorder's Office. The site is not to be reopened until Respondents are able to operate in conformance with their permits or the permits are modified. In no event will the site be opened without the written permission of the Agency. No penalty will be assessed.

The Board finds the stipulated settlement to be acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds Respondents in violation of Rules 301, 305(a), 305(b), 305(c), 303(a), 303(b), 314(c) of Chapter 7 and Section 21(b) of the Act; Rule 302 of Chapter 7 and Section 21(e) of the Act; Rule 502(a) of Chapter 2 and Section 9(c) of the Act; and Section 21(a) of the Act. Respondents shall comply with all terms of the agreement. No penalty is assessed.

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

ORDER

It is the Order of the Pollution Control Board that:

1. The City of Hanover and Patrick Farrell are found in violation of Rules 301, 305(a), 305(b), 305(c), 303(a), 303(b), 314(c) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Environmental Protection Act; Rule 302 of Chapter 7 and Section 21(e) of the Act; Rule 502(a) of Chapter 2: Air Pollution Regulations and Section 9(c) of the Act; and Section 21(a) of the Act.
2. Respondents shall comply with all terms of the stipulated agreement incorporated by reference as if completely set forth herein.

Mr. Jacob D. Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 29th day of March, 1979 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board