

ILLINOIS POLLUTION CONTROL BOARD  
January 5, 1978

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 77-166  
 )  
 WASTE MANAGEMENT OF ILLINOIS, )  
 INC., a Delaware corporation, )  
 )  
 Respondent. )

MR. JEFFREY S. HERDEN, ASSISTANT ATTORNEY GENERAL, APPEARED ON  
BEHALF OF THE COMPLAINANT.

PEDERSEN AND HOUP (MR. KENNETH J. GUMBINER, OF COUNSEL),  
ATTORNEYS 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 21, 1977  
Complaint brought by the People of the State of Illinois charging  
Waste Management of Illinois, Inc. with violations of Rules  
301, 306 and 313 of Chapter 7: Solid Waste and Section 21(b)  
of the Environmental Protection Act. A hearing was held on  
November 14, 1977. The parties filed a Stipulation and  
Proposal for Settlement on November 15, 1977.

Waste Management of Illinois, Inc. (hereinafter referred  
to as "Waste Management") owns and operates a sanitary landfill  
which is located in the southern part of Cook County, near  
175th Street and Fritz Drive, in Lansing, Illinois.

The People of the State of Illinois, represented by the  
Illinois Attorney General, filed a 2-count Complaint against  
Waste Management on June 21, 1977.

Count I of the Complaint alleged that "beginning on or  
about June 22, 1975 and continuing each day of operation  
until at least the filing of this Complaint" Waste Management  
"has caused or allowed the operation of a sanitary landfill  
without performing the requirement of Rule 306, in violation  
of Rule 301 of the Regulations, and therefore in violation of  
Section 21(b)" of the Illinois Environmental Protection  
Act (hereinafter referred to as the "Act").

Count II of the Complaint alleged that "beginning on or about January 1, 1977, and continuing each day of operation until at least the filing of this Complaint" Waste Management "has caused or allowed the deposit of refuse into a pond on the aforementioned site, in violation of Rule 313 of the Regulations and therefore in violation of Section 21(b) of the Act."

The Illinois Pollution Control Board's Solid Waste Rules and Regulations, which are alluded to in the Complaint, read as follows:

PART III: SANITARY LANDFILLS

Rule 301: Prohibition

No person shall cause or allow the operation of a sanitary landfill unless each requirement of this Part is performed.

Rule 306: Litter

All litter shall be collected from the landfill site by the end of each working day and either placed in the fill and compacted and covered that day, or stored in a covered container.

Rule 313: Water Pollution

No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act.

In accordance with the procedure for settlement in Rule 331 of the Board's Procedural Rules, the complainant and respondent filed a Stipulation and Proposal for Settlement on November 15, 1977.

The essential elements of the proposed settlement are as follows:

1. The People of the State of Illinois (hereinafter referred to as the "People") submit that the stipulation of facts shows that Waste Management failed to comply with Rule 306 of the Regulations, and therefore

violated Rule 301 of the Regulations and Section 21(b) of the Act. Waste Management does not admit said violations, but, as a basis for settlement only, offers no evidence to refute the People's contention.

2. Waste Management agrees to pay a civil penalty of \$500.00 for the violations stated above. This penalty shall be transmitted to the Illinois Environmental Protection Agency at 2200 Churchill Road, Springfield, Illinois 62706, within 14 days after this Settlement is approved by the Board.
3. Waste Management agrees to collect litter on a daily basis that is being or may be blown about the subject property and either place it in the fill and compact and cover it or store it in a covered container.
4. Waste Management agrees that representatives of the Office of the Illinois Attorney General are entitled to enter onto the subject property for the purpose of inspection and review during normal working hours without prior notice, upon presentation of official credentials.
5. Waste Management formally states its intent to cooperate fully with the State of Illinois regulatory personnel to assure no repetition of past litter conditions, and to make reasonable expenditures, if appropriate, to that end. If on the written suggestion of representatives of the Illinois Environmental Protection Agency or of the Attorney General's Office directed to Waste Management making reference to this settlement, additional permanent or portable fencing appears reasonably necessary to contain litter blowing about the subject property, Waste Management agrees to consider any such recommendation and to order the suggested fencing for immediate installation or indicate in writing reasons for declining or being unable to do so, within 30 days of receipt of such written suggestions from the Office of the Attorney.

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 Act. Incinerator, Inc., v. Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

The character and degree of injury to, or interference with, the protection of the health, general welfare and physical property of the people is indicated by the stipulated fact that "investigators from the Illinois Attorney General's Office, responding to citizen complaints, discovered that.... litter was not being collected from the subject property by the end of each working day and was further not placed in the subject property and covered, nor stored in a covered container." The nature of the solid waste involved was "municipal-type refuse" (i.e., "ordinary garbage") (R.3).

The social and economic value of this solid waste management site is readily apparent, for a properly operated sanitary landfill serves to protect the environment by disposing of refuse on land "without creating nuisances or hazards to public health or safety", while at the same time providing employment and economic benefits within the State of Illinois.

The suitability of this sanitary landfill to the area in which it is located is also manifest, for the respondent has the requisite Agency operating permits for this specific site.

In assessing the technical practicability and economic reasonableness of reducing or eliminating the landfill's litter problem, it is noted that the stipulated background facts indicate that Waste Management "has portable fencing equipment available at the site to control litter during the day-to-day operation of the site." Problems in the past have resulted from several factors, including the failure to employ the portable fences properly. Moreover, certain individuals, entirely unconnected with the company, have randomly dumped materials near the boundaries of the property. However, on the most recent investigation by investigators from the Attorney General's Office, it is stipulated that "the investigators have found that the situation which gave rise to the filing of the Complaint has substantially improved."

Accordingly, the Board finds the proposed Settlement of the instant case to be a suitable resolution of the enforcement proceeding.

The Board accepts the Stipulation and Proposal for Settlement and finds Waste Management of Illinois, Inc. in violation of Rules 301 and 306 of Chapter 7 and Section 21(b) of the Act from June 22, 1975 until June 21, 1977. The Board imposes the stipulated penalty of \$500.00.

This Opinion and Order constitute 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. Waste Management of Illinois, Inc. has violated Rule 301 and 306 of Chapter 7: Solid Waste Rules and Regulations and Section 21(b) of the Act from June 22, 1975 until June 21, 1977.

2. Within 14 days of the date of this Order, Waste Management of Illinois, Inc. shall pay the stipulated penalty of \$500.00, 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, Ill. 62706

3. Waste Management of Illinois, Inc. shall comply with all terms and conditions of the Stipulation and Proposal for Settlement filed November 15, 1977, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 5<sup>th</sup> day of January, 1978 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board