

ILLINOIS POLLUTION CONTROL BOARD
October 22, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 81-28
)
CITY OF CENTRALIA, a municipal)
corporation and ORVILLE B. FAUGHT,)
)
Respondents.)

MR. VINCENT W. MORETH, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. MARK STEDLIN, CITY ATTORNEY, APPEARED ON BEHALF OF THE CITY OF CENTRALIA.

MR. ORVILLE B. FAUGHT APPEARED PRO SE.

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

This matter comes before the Board on the February 20, 1981 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from March, 1973 until February 20, 1981, the City of Centralia ("City") failed to maintain adequate final cover on the refuse disposal site (the "site") which they operated in Marion County, Illinois in violation of Rule 5.07(b) of the Illinois Department of Public Health "Rules and Regulations for Refuse Disposal Sites and Facilities" (the "Public Health Regulations")*.

Count II alleged that, from March, 1973 until February 20, 1981, the Respondents, the City of Centralia and Orville Faught, have allowed leachate to be generated at the site and intermittently enter the waters of Webster Creek causing water pollution in violation of Section 12(a) of the Act.

*These Public Health Regulations were in force until July 27, 1973 (i.e., the effective date of Chapter 7: Solid Waste Regulations) and are applicable through the savings clause of Section 49(c) of the Illinois Environmental Protection Act ("Act").

A hearing was held on July 15, 1981. The parties filed a Statement of Stipulated Settlement on July 29, 1981.

The City of Centralia operated a refuse disposal site located about 1½ miles east of Highway 51 in Marion County, Illinois. In March, 1973, the City ceased disposal of commercial and residential refuse at this property. (Stip. 2). Currently, the site is owned by Mr. Orville B. Faught.

The Respondents have admitted that the violations alleged in the Complaint did, in fact, occur. (Stip. 2-3). To prevent any further discharges of leachate, the Respondents have agreed to take various specified steps to forestall any future problems. (Stip. 3).

The proposed settlement agreement provides that: (1) Mr. Faught agrees to allow the City to enter upon his land (i.e., the site in question) and take whatever steps that may be necessary to prevent the occurrence of leachate; (2) the Agency agrees that it will certify to the City that the site is "closed and adequately covered" within 12 months after the receipt of evidence by the Agency that leaching has been stopped; (3) the City agrees that, in the event that leaching is discovered within the previously mentioned 12 month period at the site, the City will promptly hire a registered professional soil engineering firm to ascertain the causes and solutions to the leachate problem and will expeditiously take whatever remedial measures that are necessary to correct the problem in consultation with the Agency, and (5) the Agency believes that "a penalty is not appropriate in this case." (Stip. 3-5).

In evaluating this enforcement action and proposed settlement agreement, 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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. Accordingly, the Board finds that the City of Centralia has violated Rule 5.07(b) of the Public Health Regulations on Refuse Disposal Sites and Facilities and Section 12(a) of the Illinois Environmental Protection Act. The Board also finds that Mr. Orville B. Faught has violated Section 12(a) of the Act. The Respondents will be ordered to follow the compliance plan set forth in the Statement of Stipulated Settlement. No penalty will be assessed against either of the Respondents.

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 City of Centralia, has violated Rule 5.07(b) of the Public Health Regulations on Refuse Disposal Sites and Facilities and Section 12(a) of the Illinois Environmental Protection Act.

2. The Respondent, Orville B. Faught, has violated Section 12(a) of the Illinois Environmental Protection Act.

3. The parties shall comply with all the terms and conditions of the Statement of Stipulated Settlement filed on July 29, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 22ND day of October, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board