

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Petitioner,)
)
v.) PCB 77-314
)
ROCKFORD BLACKTOP)
CONSTRUCTION CO.,)
an Illinois corporation,)
)
Respondent.)

LORETTA A. WEBER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE PETITIONER.

WELSH, HOLMSTROM, WORDEN & GAINES, LTD. (MR. JOHN HOLMSTROM III, OF COUNSEL) APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 30, 1977 Complaint brought by the Illinois Environmental Protection Agency which alleged that Rockford Blacktop Construction Co. ("Rockford") operated its solid waste management site in violation of Rules 301, 303(c), 305(a), 305(b), 310(b), 311, and 314(d) of Chapter 7: Solid Waste Regulations and Sections 9(c), 21(b), 21(e) and 42(a) of the Illinois Environmental Protection Act. A hearing was held on April 26, 1978. The parties filed a Stipulation and Proposal for Settlement on April 26, 1978.

Rockford Blacktop Construction Company owns and operates a solid waste management site in Winnebago County known as Rockford Sand & Gravel. This sanitary landfill is located at 4102 South Main Street in Rockford, Illinois. The site is bordered on the east by the Rock River, on the west by Illinois Route 2, on the south by Illinois Route (Bypass) 20, and on the north by privately owned undeveloped land. Although the Respondent's property is located in an area which is primarily undeveloped, there are scattered residences within a mile of the site.

The property in question has been used as a landfill since January, 1950. The Respondent began operating the property as a refuse disposal site on June 1, 1960. Rockford Blacktop Construction Company is permitted to operate the sanitary landfill under Agency Permit Number 1973-28 issued April 30, 1973 which allows the Respondent to handle construction debris (such as roofing, cement blocks, broken concrete, dirt and relatively inert material) in the western pit, and brush, limbs, trees, leaves, lumber, demolition waste and tires in the eastern pit. The Company also has obtained numerous Supplemental Permits from the Agency (which are listed in detail in the Stipulation) allowing the acceptance of liquid and other wastes at the site. (Stip., p. 2-3).

Numerous Agency investigations of the site preceded the filing of the Complaint on November 30, 1977. Twenty-one Agency inspection reports were made on various dates between June 12, 1975 and September 29, 1977 (Group Exhibit A). During the September 21, 1976, January 21, 1977 and March 29, 1977 investigations of the Respondent's landfill, photographs were taken of various areas of the site. (Group Exhibit B). Additionally, water samples were taken of ponded liquid wastes on the site during the September 21, 1976, January 21, 1977, March 29, 1977, June 7, 1977, and June 30, 1977 inspections by Agency personnel. These water samples were then chemically analyzed and the results were recorded on Agency chemical analysis forms. (Group Exhibit C).

Various facts related to the enforcement action have been stipulated to by the parties. It is agreed that the Respondent does not itself deposit refuse, but allows others to deposit refuse at the site for a fee. The Complainant and the Respondent stipulate that Rockford did not know that hazardous liquid wastes were being deposited on the site, since the Company believed it was accepting wastes which were permitted by the Agency. It is also stipulated that the existence of hazardous wastes at the site is due primarily to the Respondent not properly checking the cargos of trucks dumping at the site. (Stip., p. 8).

Additionally, the parties have stipulated that Rockford Blacktop Construction Company has: (1) since September 21, 1976, allowed others to deposit hazardous liquid wastes at the site without the necessary Agency Permits in violation of Section 21(e) of the Act and Rules 301 and 310(b) of the Board's Solid Waste Regulations; (2) from about September 3, 1975 to about January 22, 1976, allowed an underground fire to burn at the site in violation of Section 9(c) of the Act and Solid Waste Rule 311 (although the fire protection equipment at the site included bulldozers, end loaders, trucks, and fire extinguishers, and on an intermittent

basis, water trucks and a 10,000 gallon water wagon mounted on a tournapul, the underground fire was not extinguished until about January 22, 1976); (3) failed to place adequate daily cover over all exposed refuse intermittently since June 12, 1975 in violation of Section 21(b) of the Act and Solid Waste Rule 305(a); (4) intermittently since October 9, 1975, failed to place appropriate intermediate cover on the landfill, in violation of Section 21(b) of the Act and Solid Waste Rule 305(b); and (5) intermittently since September 3, 1975, failed to maintain the slope of the working face of the landfill at a ratio of no greater than two horizontal to one vertical in violation of Solid Waste Rules 301 and 303(c) and Section 42(a) of the Act.

Moreover, the Complainant and Respondent agree that it is technically feasible and economically reasonable to operate the site in conformance with the Illinois Environmental Protection Act and Board Regulations.

As a result of discussion between the parties, a settlement proposal has been presented to resolve this enforcement proceeding. Basically, this settlement agreement provides that the Company will: (1) cease and desist from accepting any liquid or hazardous wastes of any kind for any purpose (all supplemental permits allowing such acceptance, either expired or in effect, must be turned back into the Agency within 30 days after the Board Order accepting the Stipulation and Proposal for Settlement); (2) install 2 new monitoring wells at a location and depth which will adequately reflect the condition of the groundwater (the location and depth of the wells must be approved by the Agency and installation must be within 90 days after the Board Order adopting the settlement proposal); (3) cease and desist from all violations of the Illinois Environmental Protection Act and Board Regulations; and (4) pay a stipulated penalty of \$5,000.00 .

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. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds Rockford Blacktop Construction Company in violation of Rule 301, 303(c), 305(a), 305(b), 310(b), and 311 of Chapter 7: Solid Waste Regulations and Section 9(c), 21(b), 21(e) and 42(a) of the Illinois Environmental Protection Act. The Board imposes the stipulated penalty of \$5,000.00 . The Board notes that Section 42(a) is a penalty statute.

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. Rockford Blacktop Construction Company has violated Rule 301, 303(c), 305(a), 305(b), 310(b), and 311 of Chapter 7: Solid Waste Rules and Regulations and Section 9(c), 21(b), 21(e) and 42(a) of the Illinois Environmental Protection Act.
2. Within 35 days of the date of this Order, Rockford Blacktop Construction Company shall pay the stipulated penalty of \$5,000.00 , 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

3. Rockford Blacktop Construction Company shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed April 26, 1978, 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 20th day of July, 1978 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board