

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1981

PEOPLE OF THE STATE OF ILLINOIS)
AND)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-260
)
A.R.F. LANDFILL CORPORATION,)
an Illinois corporation,)
)
Respondent.)

NANCY J. BENNETT, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MARTIN, CRAIG, CHESTER & SONNENSCHNEIN, ATTORNEYS AT LAW (MR. ROY M. HARSCH, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the October 3, 1977 Complaint brought by the People of the State of Illinois (the "People"). After numerous discovery motions were filed, on April 4, 1980 the Illinois Environmental Protection Agency ("Agency") filed a Motion for Leave to Intervene as Co-Complainant with the People of the State of Illinois in this case, and moved, together with the People, for leave to file an Amended Complaint. On June 6, 1980, the Hearing Officer entered an Order which granted the Agency's Motion for Leave to Intervene as a Co-Complainant.

Count I of the Amended Complaint alleged that, on specified occasions between October 6, 1978 and April 4, 1980, the Respondent, the A.R.F. Landfill Corporation (the "Company" or "A.R.F."), had improperly operated its refuse disposal site ("site") in that it failed to deposit all refuse into the toe of the fill or into the bottom of the trench in violation of Rule 303(a) of Chapter 7: Solid Waste Regulations ("Chapter 7") and Section 21(e) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, on specified dates between September 15, 1978 and April 4, 1980, the Respondent failed to place adequate daily, intermediate, and final cover on its refuse in violation of Rules 305(a), 305(b), and 305(c) of Chapter 7 and Section 21(e) of the Act.

Count III alleged that, from January 1, 1979 until April 4, 1980, the Company operated its landfill without roads adequate to allow orderly operations within the site in violation of Rule 314(b) of Chapter 7 and Section 21(e) of the Act. Count III also alleged that, from March 31, 1979 until April 4, 1980, the Respondent operated its landfill without adequate measures to monitor and control leachate in violation of Rule 314(e) of Chapter 7 and Section 21(e) of the Act.

Count IV alleged that, from January 15, 1980 until April 4, 1980, the Company failed to submit the requisite quarterly water monitoring data as required by its Operating Permit No. 1976-22-OP in violation of Rule 317 of Chapter 7 and Section 21(e) of the Act.

Count V alleged that, from September 15, 1978 until April 4, 1980, the Company "has deposited contaminants upon the land in its landfill in such a manner so as to create a water pollution hazard" in violation of Section 12(d) of the Act.

Count VI alleged that, from September 15, 1978 until April 4, 1980, A.R.F. failed to have sufficient equipment, personnel and supervision available at the site in violation of Rule 304 of Chapter 7 and Section 21(e) of the Act.

Count VII alleged that, from January 1, 1977 until April 4, 1980, the Company accepted hazardous wastes, liquid wastes and sludges at its sanitary landfill without having obtained the necessary Agency permit in violation of Rule 310(b) of Chapter 7 and Section 21(e) of the Act.

A discovery hearing was held on March 2, 1978. After several prehearing conferences took place, a hearing on the proposed settlement agreement was held on May 5, 1981. The parties filed their Stipulation and Proposal for Settlement on May 5, 1981.

The Respondent owns and operates an 80 acre sanitary landfill in the Village of Grayslake in Lake County, Illinois which is located near Illinois Route 83 and 137. (Stip. 1). During January of 1979, the Company replaced the prior operator of this sanitary landfill and took various positive steps to comply with the Board's Solid Waste Regulations and the Act. (Stip. 2). The parties have stipulated that, since January of 1979, the Company has been in substantial compliance with the Board's Solid Waste Regulations and the Act. (Stip. 2-5; R. 7-8).

The proposed Stipulation indicates that the Complainants now wish to withdraw Counts I, III, IV, V, and VI of the Amended Complaint. (Stip. 2-4). Additionally, the Respondent has requested that Count VII of the Amended Complaint be dismissed because it contends that it has not accepted liquid and hazardous wastes without the requisite permits. Accordingly, the Board will allow the Complainants to withdraw Count I, III, IV, V, and VI of their Amended Complaint and will dismiss Count VII of the Amended Complaint as requested by the Respondent.

In reference to the cover violations which were alleged in Count II of the Amended Complaint, the parties have stipulated "that Complainant's witnesses would testify that they observed uncovered refuse when they conducted certain inspections; and that A.R.F.'s witnesses would testify that the refuse was properly covered on all but a few of the alleged dates. A.R.F. would further testify that on these few occasions, extreme weather conditions such as excessive snowfall, low temperatures or rainfall, prevented normal operations to be carried out and therefore it was technically infeasible to provide the required daily cover". (Stip. 2-3). Additionally, the parties have stipulated that the Respondent is currently in compliance with the intermediate and final cover requirements of Chapter 7. "However, for purposes of this settlement, the parties agree that a technical violation of Rule 305(a) and Section 21(e) could be established at a hearing". (Stip. 3).

The proposed settlement agreement provides that the Company will: (1) operate its sanitary landfill in compliance with the applicable Agency permits and applicable provisions of the Board's Solid Waste Regulations and the Act, and (2) pay a stipulated penalty of \$1,000.00 .

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. The Board finds that the Respondent, the A.R.F. Landfill Corporation, has violated Rule 305(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act. The stipulated penalty of \$1,000.00 will be assessed 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 A.R.F. Landfill Corporation, has violated Rule 305(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act.
2. Within 60 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions

of the Stipulation and Proposal for Settlement filed May 5, 1981, which is incorporated by reference as if fully set forth herein.

4. The Board hereby grants the Complainants' Motion to Withdraw Counts I, III, IV, V, and VI of the Amended Complaint.

5. The Board hereby grants the Respondent's Motion to Dismiss Count VII of the Amended Complaint.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 10th day of June, 1981 by a vote of 4-1.


Christan L. Moffett, Clerk
Illinois Pollution Control Board