

ILLINOIS POLLUTION CONTROL BOARD
January 21, 1982

FOREST PRESERVE DISTRICT OF DUPAGE)
COUNTY, ILLINOIS, AN ILLINOIS)
MUNICIPAL CORPORATION,)
)
Complainant,)
)
v.) PCB 79-52
)
E & E HAULING, INCORPORATED,)
AN ILLINOIS CORPORATION,)
)
Respondent.)

RICHARD A. MAKARSKI, CHAPMAN AND CUTLER, APPEARED ON BEHALF OF
COMPLAINANT;
THOMAS W. MCNAMARA, JENNER AND BLOCK, APPEARED ON BEHALF OF
RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

This matter is before the Board upon the complaint of the Forest Preserve District of Du Page County Illinois (District) alleging violation of Rules 202 and 310(b) of Chapter 7: Solid Waste and Section 21(e) of the Illinois Environmental Protection Act (Act) by E & E Hauling Corporation (E & E) at the E & E sanitary landfill located at the Mallard Lake Recreational Preserve in Bloomingdale and Lane Townships, Du Page County, Illinois. Hearing was held in this matter on September 14, 1981. No citizens attended the hearing and the Board has received no public comment in this matter.

Subsequent to the filing of this action, the matter became the subject of litigation before the Circuit Court in Du Page County and the United States District Court for the Northern District of Illinois, Eastern Division. The Federal Court case had identical parties and was dismissed by stipulation between the parties on July 17, 1981. The Circuit Court case was brought by the People of the State of Illinois with the parties herein as defendants along with the Illinois Environmental Protection Agency. The Circuit Court case was settled by an agreed judgment entered June 12, 1981 with the Circuit Court retaining jurisdiction to enforce the provisions of the judgment. This matter has been continued generally by agreement of the parties and concurrence of the Board during the pendency of the matter before the

Circuit Court in Du Page County. The parties now request that the Board dismiss this cause with prejudice stating that the agreed judgment entered in the case of People of the State of Illinois v. E & E Hauling, Incorporated et al., 79 Ch. 240, 18th Judicial Circuit, Du Page County, Illinois (July 12, 1981) adequately disposes of the matters raised in this proceeding before the Board. In addition, the parties state that the Illinois Environmental Protection Agency has no objection to the dismissal of this action.

Rule 202 of Chapter 7 and Section 21(e) of the Act prohibit operation and disposal of waste in a landfill without a permit and Rule 310(b) of Chapter 7 provides that hazardous waste or liquid waste and sludges may be accepted at a sanitary landfill only if authorized by permit. The agreed judgment bans the deposition of hazardous waste at the Mallard Lake landfill site and states a number of conditions concerning the collection and disposition of leachate from the site. Other conditions address the deposit of liquid or special wastes, the installation of monitoring wells, responsibility for perpetual maintenance of the leachate collection and monitoring systems, the general configuration of final cover, collection and flaring of landfill gases, inspection and sampling requirements, and the establishment of an environmental responsibility fund with an initial contribution of at least \$230,000 and subsequent total accumulation of \$2,000,000 to be used to pay liabilities imposed by the judgment and other statutes and regulations relating to Forest Preserve District landfills and to be maintained in perpetuity until otherwise ordered by the Court. The agreed judgment also contains a paragraph disclaiming any intention to relieve any party of the necessity of complying with all federal, state and local laws and requirements.

Upon review of the agreed judgment, the Board finds that it is a reasonable resolution of this action and adequately protects the environmental interests of the State of Illinois. The Board shall therefore dismiss this case, Docket Number PCB 79-52, with prejudice.

This Opinion constitutes the finding of facts and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that Docket Number PCB 79-52 be and is hereby dismissed with prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 2ST day of January, 1982 by a vote of 4-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board