

ILLINOIS POLLUTION CONTROL BOARD  
January 23, 1975

ENVIRONMENTAL PROTECTION AGENCY	)	
Complainant	)	
v.	)	PCB 74-178
CITYWIDE SERVICES, INC., an Illinois Corporation, and the COUNTY OF KNOX, a Political Subdivision of the State of Illinois,	)	
Respondents	)	
CITYWIDE SERVICES, INC.	)	
Petitioner	)	
v.	)	PCB 74-177
ENVIRONMENTAL PROTECTION AGENCY	)	
Respondent	)	

INTERIM OPINION AND ORDER of the Board (by Mr. Zeitlin)

These two cases were consolidated by Board Order on July 18, 1974. At a hearing on November 20, 1974, the parties submitted a Stipulation of Fact and Proposed Settlement pursuant to Procedural Rule 333 of the Board. The matter was scheduled for discussion by the Board on January 16, 1975. However, on that day, Respondent Citywide Services, Inc. filed with the Board a Motion to Postpone Ruling on Stipulation and Proposal for Settlement, with leave to submit a Supplemental Stipulation within 30 days. Respondent Citywide has waived the 90-day rule until April 16, 1975.

Citywide in its motion stated that a material part of the original Stipulation, a requirement that all landfill or solid waste disposal activities other than necessary closing activities be discontinued by December 1, 1974, had become impossible to comply with for reasons beyond the control of the parties; and therefore, Citywide could not complete such activities before March 15, 1975. Agreement, however, on a new date of closing could not be reached by the parties due to difficulties in apportioning between Respondents Citywide and Knox County the extra costs incurred due to the delay.

Such a delay should have been foreseeable by the parties to this action. After a long period of negotiation, the parties entered a Stipulation which was notable for its lack of clarity or organization. While the intent, and the plan itself, were not objectionable, the content of the plan was difficult to assess. Additionally, the Stipulation was clearly deficient in that it did not contain a definitive schedule as to the dates and responsibilities contemplated in the proffered performance bond.

With regard to Citywide's Motion to Postpone Ruling on Stipulation and Proposal for Settlement, it shall be denied to the extent of it being inconsistent with this Interim Order of the Board. The Board, rather than postpone its ruling on the instant Stipulation and Proposal for Settlement, will return that Stipulation to the parties for clarification and amendment. Therefore, Respondent's request that the Board accept a Supplemental Stipulation in this matter, to be filed at a later date, is also denied.

It should be noted that this action by the Board apparently serves the purposes of the parties in the matter. Insofar as the Agency has not responded to Citywide's Motion to Postpone Ruling on Stipulation and Proposal for Settlement, either for itself or through the Attorney General, it must, in accordance with Procedural Rule 308(c) of the Board, be deemed to have waived any objection to the granting of that Motion. The return of this Stipulation to the parties for amendment and clarification, then, will allow the parties to complete the process of negotiation and settlement, as they apparently desire.

It is the Opinion of the Board that an amended Stipulation in this matter be resubmitted in a final, clear and cohesive fashion, and setting out timetables and specific duties for the parties. The Hearing Officer will be instructed, in accord with this Order of the Board, to proceed to a hearing in the matter, if an amended Stipulation has not been filed with the Board within 30 days of the adoption of this Order.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above INTERIM OPINION & ORDER were adopted on the 23<sup>rd</sup> day of January, 1975 by a vote of 3 to 0.

  
Christan L. Moffett, Clerk  
ILLINOIS POLLUTION CONTROL BOARD