

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1972

KNOX COUNTY LANDFILL)
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 v.) # 72-359
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 ENVIRONMENTAL PROTECTION AGENCY)

Opinion & Order of the Board (by Mr. Currie):

This variance petition sought permission to continue certain violations with respect to landfill operations until acquisition and approval of a new site. Following a full hearing the County moved to withdraw its petition, declaring that the request to deposit additional liquid wastes at the old site had been "improvident"; that the County has ceased such deposits and has no plans to allow such deposits in the future; and that professional engineering studies are underway to the end that other alleged violations will be "immediately stopped." The initial petition was filed by the Landfill Committee, without the aid of counsel; the withdrawal request came from the State's Attorney, who had not had notice of the earlier proceedings.

Intervening citizens opposing the variance ask that we require the hearing transcript to be submitted prior to passing on the withdrawal motion, and the Agency concurs. We do not agree. The only request for relief before us is the County's request for a variance; if the County no longer wants a variance, there is nothing for us to decide and therefore no reason for the case to proceed further. If anyone wishes to pursue the question of alleged infractions of the regulations, a complaint may be filed.

The Agency orally asked us to require the transcript to be produced in case it is needed in subsequent proceedings. Any party may have the transcript typed and put it to such use as the rules of evidence allow, but we do not think the possibility of future use justifies us in placing the cost of producing the transcript on a party no longer wishing any relief from the Board. We will require the county as a condition of dismissal to see to it that the reporter's notes remain available to all parties for the next six months.

Some concern was also expressed lest the County attempt to file a new petition and proceed without presumably unfavorable evidence disclosed in the first hearing. We see no suggestion of any such intention to abuse the variance procedure in the motion to withdraw, which sets forth a straightforward change of position and intention to comply without seeking such relief as before. We think adequate protection will be afforded by requiring the transcript of the earlier hearing to be produced by the County if and when a new variance petition is filed with respect to the same land-fill site.

On the conditions indicated above, the motion to withdraw is granted and the petition hereby dismissed.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion & Order this 8th day of November, 1972, by a vote of 5-0.

Christan L. Moffett