

ILLINOIS POLLUTION CONTROL BOARD
November 14, 1972

ENVIRONMENTAL PROTECTION AGENCY)
)
 v.) #72-159
)
 CITY OF WOODSTOCK and)
 WILLIAM E. GAULKE)

Richard W. Cosby, Assistant Attorney General, for the
Environmental Protection Agency

William I. Caldwell, Jr., for the City of Woodstock

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

Complaint was filed on April 18, 1972 charging numerous violations of the Illinois Environmental Protection Act ("Act") and the Rules and Regulations for Refuse Disposal Sites and Facilities ("Rules") had occurred at a landfill site in McHenry County on various dates from December 1, 1970 through February 17, 1972. The complaint stated that William E. Gaulke owned the site, and that the City of Woodstock ("City") operated and was the contract purchaser of the site from Mr. Gaulke. Public hearing was held on September 26, 1972. Mr. Gaulke was not present and was not represented at the hearing; no testimony whatsoever related to his involvement in the case and he is therefore dismissed as a party to these proceedings.

The Agency first charges that the City was operating the facility without having obtained a permit to do so from the State, and this is admitted (R. 158).¹ The City Manager

1. As originally adopted, the landfill rules (now PCB Regs., Ch. 7, Rule 1.03) required permits only for sites opened after the effective date of the regulations (1966); existing sites required only registration (id., Rule 1.01). However, § 21(e) of the Environmental Protection Act, effective July 1, 1970, requires a permit for all disposal operations, with an exception not here pertinent, "after the Board has adopted standards for the location, design, operation, and maintenance of such facilities." The landfill rules, now PCB Regs., Ch. 7, Part II, clearly establish such standards, and they became regulations of this Board upon adoption of the Act, as provided in § 49(c). Thus by operation of statute permits have since July 1, 1970 been required for existing as well as new landfill operations. The amended regulations now under consideration by the Board (#R 72-5) will clarify this requirement.

testified that he had decided that since the landfill had been in operation since 1935, and had been registered with the Department of Public Health, no further state permit was necessary (R. 123-125). But in September, 1970, the City learned a permit was necessary and sought the assistance of a civil engineering firm (R. 116-117). The firm helped prepare plans of the site at a substantial cost to the City (R. 116), and studied the facilities to determine the amount of time the site could be used. The application for permit was submitted to the Agency but was returned because it lacked certain additional information (R. 6-12, 116-118). It is unclear whether or not the City has since reapplied for its permit.

The complaint further alleges the open dumping of garbage on five separate dates, and the open dumping of refuse on eleven dates. The evidence indicates that two areas were used for dumping: one for brush, wood and other combustible materials; and the other for garbage and putrescible materials. The Agency's witness testified that he observed food products and household garbage dumped on the site on February 23, 1971; March 31, 1971; January 20, 1972; February 10 and 17, 1972 (R. 66), and his reports indicated that on several of these occasions the materials were not adequately spread and compacted. Further testimony seemed to indicate that the wood products and refuse disposal area was more frequently uncovered than the garbage disposal area, but that both parts of the fill were from time to time unspread, uncompacted, and uncovered; both these conclusions were admitted by the City (R. 158-159).

The City is also charged with having deposited liquids and hazardous materials on the site on December 1, 1970, October 6 and 27, 1971 without first having obtained a permit from the Agency, and, in a related charge, with having caused, threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois. Evidence indicated that this liquid was lime sludge from the adjacent water treatment plant (R. 53-56, 83, 107), but the City's Director of Public Works testified that lime sludge has been recommended by the State of Illinois for use as a membrane sealer in landfills since 1966 (R. 145-146), the purpose being to keep leachate from entering the water table. No contradictory representation was made by the Agency, and no proof was offered to support the allegation that the sludge was hazardous due to either the quantity present or the manner in which it was applied. Therefore, the only violation we find relating to this substance is that the City has deposited a liquid material on the site without first having obtained written approval from the State to do so.

The City is also charged with failing to provide a proper shelter for its landfill personnel, but the Agency's witness testified that not only was there a shelter of sorts on the site (R. 65), but also that the sewage treatment plant adjacent to the site was equipped with sanitary facilities accessible to personnel from the landfill (R. 58-59), and it was later revealed that employees at the site were in fact given keys to the gate allowing them to enter the property of the plant and use its facilities. Therefore, we find the proof insufficient to support an allegation of violation of law in this regard.

In December, 1971, the City hired a new Director of Public Works who had previously worked for nine years in the Bureau of Solid Wastes of the Department of Health, Education and Welfare, establishing guidelines and operational procedures for sanitary landfills. In addition, he has also operated a landfill site of his own in Montgomery County, Maryland. Immediately upon assuming his new post, he replaced the chief operator of the City's site, and instituted several commendable changes in the operation of the site, in the manner in which cover is applied, the amounts and times materials will be accepted for deposit at the site, and the system by which adherence with Agency guidelines will be assured (R. 142-156). A good deal of additional cover material has been excavated and stockpiled (R. 150), and the life expectancy of the site, due to the substantial improvements already made, has been increased to another twenty years (R. 153); and the use of lime sludge as a membrane sealer at the bottom of the site was apparently commenced at his direction (R. 157). The City has purchased a tractor at a cost in excess of \$18,000; a dragline for over \$12,000; a trailer with sanitary facilities for use on the site at a cost of \$1,500; and has spent over \$7,000 for renting equipment to assist in the moving and ultimate covering of trees at the site (R. 132-133).

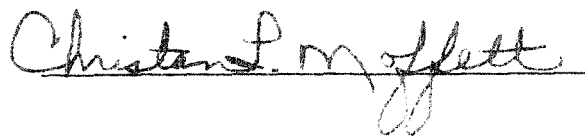
In summary, the evidence substantiates the allegations of open dumping of garbage and refuse on several occasions, the deposition of liquid at the site without prior written approval, failure to adequately spread, compact or cover on certain occasions, and operation of the site without a permit. But the evidence also indicates a substantial good faith effort on the part of the municipal leaders to correct deficiencies at the site as soon as possible. It would appear that many of the problems at the site have already been corrected, and that the new Director of Public Works has the knowledge, background, skill and determination to correct the others. Therefore, we will impose a nominal penalty for past violations, a cease and desist order to assure that operation of the site will in the future comply with applicable law, and an order directing the City to obtain necessary permits for the continued operation of the site.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that:

1. Except as provided in paragraph 3 of this order, Respondent, City of Woodstock, shall forthwith cease and desist the operation of the landfill site in violation of the Illinois Environmental Protection Act and the Rules and Regulations For Refuse Disposal Sites and Facilities;
2. Penalty in the amount of \$100 is assessed against Respondent, City of Woodstock, for the violations found herein. Payment shall be made within 35 days of receipt of this Order by certified check payable to the State of Illinois, and sent to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.
3. Respondent, City of Woodstock, shall immediately take whatever steps are necessary to secure the appropriate permits from the Agency to operate the landfill site in the manner in which it is presently being operated, including such written approval as is necessary for the continued deposition of lime sludge, or any other liquid material, at the site.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion & Order this 14th day of November, 1972, by a vote of 5-0.


Christan P. Moffett