

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1996

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 95-158
)	(Enforcement - Land)
CITY OF HERRIN,)	
)	
Respondent.)	

ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon a four-count complaint filed May 30, 1995, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against the City of Herrin, located in Williamson County, Illinois. The complaint alleges that the City of Herrin violated Sections 21(d)(1), (2), and 21(o)(2), (3), (5), (12), of the Illinois Environmental Protection Act (Act), (415 ILCS 5/21(d)(1), (2) and 21(o)(2), (3), (5), (12)) and 35 Ill. Adm. Code 807.306, 807.304(a) - (c), 807.314(e), 807.315 and special conditions of permit No. 1990-353-SP and 1993-041-SP by disposal of waste outside the permitted boundaries of the landfill, failure to use proper fencing, improper maintenance of the side slopes, failure to collect litter, failure to apply and/or maintain required daily, intermediate and final cover, and failure to apply proper cover to control erosion and to control leachate.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on September 25, 1996. The Board published a notice of the waiver on October 3, 1996; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on September 25, 1996. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. The City of Herrin admits the alleged violation and agrees to pay a civil penalty of thirteen thousand dollars (\$13,000.00).

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and the City of Herrin, located in Williamson County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The City of Herrin, shall pay the sum of thirteen thousand dollars (\$13,000.00) within 60 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

The certified check or money order shall clearly indicate on its face, the City of Herrin's Federal Employer Identification Number and that payment is directed to the Environmental Protection Trust Fund.

- 3) The City of Herrin shall also pay the sum of two thousand dollars (\$2,000.00) within 60 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, in the same manner and to the same address provided in paragraph 2 above:

The certified check or money order shall clearly indicate on its face Respondent's Federal Employer Identification Number or Social Security Number and that payment is directed to the Hazardous Waste Fund.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- 4) The City of Herrin shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board