

ILLINOIS POLLUTION CONTROL BOARD  
October 24, 1972

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 vs ) PCB72-149  
 )  
 LOCKPORT TRUCKING CO., a Delaware )  
 corporation and JACK CARLSTROM, )  
 )  
 Respondents. )  
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 LOCKPORT TRUCKING CO., a Delaware )  
 Corporation and JACK CARLSTROM, )  
 )  
 Petitioners, )  
 )  
 vs ) PCB72-229  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Respondent. )

Richard Cosby and Douglas Moring, Assistant Attorney General for the EPA  
Thomas Feehan for Respondents

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

This case is a consolidation of two separate actions. The first (PCB72-149) is an enforcement action by the Environmental Protection Agency, and the second (PCB72-229) is a petition for variance.

In the enforcement action the Environmental Protection Agency alleges that on numerous dates in 1970, 1971 and 1972 Respondents operated a refuse disposal site near Joliet, Illinois without a State permit and were guilty of open dumping of refuse, failure to provide proper cover, failure to provide a proper shelter on the disposal site, deposition of refuse in standing water, and causing or threatening to cause water pollution. Respondents in their petition for variance alleged that the refuse disposal site is an abandoned limestone quarry which has filled with water from surface drainage, that it should be filled with solid material to remove a public hazard, that the fill consists of asbestos and lime waste from one industry which does not cause air pollution or water pollution, and to close the site would work a hardship on GAF Industries, the company using the site. Respondents request permission to use the site without an EPA permit and to deposit refuse in standing water.

The evidence shows that Lockport Trucking Company for fifteen years has disposed of the industrial waste of GAF Industries. This waste consists of 40,000 tons per year of asbestos and asphalt scrap clippings. Respondents purchased an abandoned limestone quarry for the purpose of disposing of this material. The quarry is located close to Interstate 80 and receives surface water runoff from the highway. Water has collected in the quarry and prior to Respondent's purchase of it the quarry was used by young people as a swimming hole. Unauthorized public dumping also occurred then. The water contained in the quarry is 20 or 30 feet higher in elevation than the shipping canal which is 200 feet or 300 feet to the east. It is believed that both the quarry and the canal are in the same limestone formation which reaches a depth of about 100 feet in that vicinity. Near the canal is a deep well used for the public water supply to the City of Joliet. The well is in excess of 1500 feet in depth considerably beyond the limestone formation.

The Will County Health Department granted Respondents a permit to dump on condition that no organic material be deposited on the site. This of course did not obviate the need for a State permit. The EPA refused to grant a permit since engineering plans were not complete and it appeared that the proposal involved deposition of refuse in standing water.

Although Respondent Jack Carlstrom, President of Lockport Trucking Company, testified that refuse was covered daily with clay, EPA photographs taken on November 4, 1971 and again on November 10, 1971 clearly show identifiable objects which remained uncovered for the six day period. The photographs further show the refuse which was deposited in standing water. No garbage was deposited on the site. However, cardboard boxes, paper, wooden crates and bales of cotton material were observed in the fill in addition to the industrial wastes. The County Health Department made periodic inspections at the site and apparently approved the operation--a fact we consider in mitigation of penalty only. The site shelter had a toilet but was unheated and had no sanitary water supply. The site was for private use only and was fenced and posted with "No Trespassing" and "No Dumping" signs.

We find from the testimony that Respondents did operate a landfill without a permit, did cause open dumping, failed to cover on a daily basis, failed to provide proper shelter on the site and did deposit refuse in standing water.

The charge that Respondents caused or threatened the discharge of contaminants so as to cause water pollution is more difficult. The hearings unfortunately did not produce testimony as to whether or not the sub-strata under the site was of the type that would allow leachate to percolate down to underground waters. Samples of water taken from the deep well located downhill from the quarry show that for many years the public water supply has shown no ill effect from the dumping. There is no direct evidence that Respondents have caused water pollution

at the public well, the canal or to the ground waters. The agency has filed a pleading in which reference is made to a report from the Illinois State Geological Survey which was not introduced into evidence. The report supposedly states that "hydrogeologic conditions are unfavorable for landfilling since any substances generated by solid waste disposal have ready access to the surrounding fractured dolomite aquifer with little likelihood of subsequent attenuation". The Agency pleading does not connect the quoted language specifically to this quarry. The only testimony in the record on the point is the statement of the Will County Public Health Officer:

Q. "Do you know whether it is fractured or not?"

A. "Limestone is one of the formations which is hard to find it not fractured. I do not know whether it is fractured or not." (P. 102)

One might speculate that the limestone formation is in fact broken from the blasting which occurred many years ago and that a water hazard does exist. However, this is rebutted by testimony that there was in fact no pollution to the well or the canal over the many years dumping has occurred at the quarry. Neither party introduced evidence of the chemical analysis of the water. On this state of the record we are unable to find that Respondents caused or threatened to cause water pollution.

Lockport Trucking Company asks that we grant the variance for the deposition of refuse in standing water without the issuance of a permit from the EPA. The EPA refused to grant the permit because insufficient engineering data had been submitted. For the same reason we decline to grant the variance. The parties have produced insufficient engineering evidence regarding the possible water hazard. In the variance case the burden of proof is on Petitioners Lockport Trucking Company and Jack Carlstrom and we must deny the variance until such time as they have produced the required data.

We note that the quarry will be filled in 18 months and the Petitioners then plan to cover it and donate it for use as a park. We approve of this motive but must require that Petitioners prove to the EPA their right to proceed. The proper procedure is to submit the required information to the Agency and then appeal from any final ruling of the Agency.

For the violations we impose a penalty of \$1,000 and require that Respondents close the refuse disposal site if they have not obtained a permit for its operation by December 31, 1972. Respondents shall cease and desist from all other violations immediately.

ORDER

It is ordered that Respondents:

1. Close the refuse disposal site and apply final cover if they have not obtained a permit from the Environmental Protection Agency for the operation of the refuse disposal site by December 31, 1972.
2. Cease and desist from all other violations of the Environmental Protection Act and the Rules and Regulations for Refuse Disposal Sites and Facilities immediately.
3. Respondents shall pay to the State of Illinois within 35 days the sum of \$1,000 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 24 day of October, 1972 by a vote of 5 to 0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board