

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 75-158
)
 VILLAGE OF ROCKTON,)
)
 Respondent.)

JOAN WING, Assistant Attorney General for the EPA
JOSEPH POLITO, Attorney for Village of Rockton

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

Respondent, Village of Rockton, is charged with operating a solid waste management site without a permit in violation of Rule 202(b)(1) of the Solid Waste Regulations and Section 21 of the Environmental Protection Act. The violations allegedly occurred from July 27, 1974, the date when permits were to be obtained under the Solid Waste Regulations, until April 14, 1975, the date when the Complaint was filed with the Pollution Control Board.

The evidence proves that Respondent did in fact operate a solid waste management site without a permit during the time period which was alleged in the Complaint. The landfill in question was open only on Sundays for 8 hours and was for the convenience of the residents of Rockton who wished to bring their waste to the Village landfill. The site was closed and the gate padlocked on six days of each week. On Sundays an employee of the Village was present at the site to oversee the placement of waste in a ditch. A local contractor would then compact the material and cover it, usually on the following Monday. The landfill was open on just 24 days between July 27, 1974 and April 14, 1975. Because of weather conditions, it was closed for several weeks during the winter of 1974-1975. The landfill was officially closed by action of the Village President on April 1, 1975 prior to the time the Complaint was filed in this action.

Respondent first obtained the landfill site about 5 years ago after observing that people disposed of their waste along

the state highway. An EPA employee made several visits to the landfill, beginning in 1971, and notified the Village President orally and by letter that there was a requirement for an operating permit. The Solid Waste Regulations, adopted by the Pollution Control Board on July 27, 1973, allowed one year within which to obtain operating permits. The Village of Rockton did apply for an operating permit in April 1974. The permit application was rejected by the Agency since it was incomplete. A second application was filed by the Village of Rockton in June or July 1974 prior to the July 27, 1974 deadline. The second application was denied in August 1974 because it also was incomplete. The main difficulty in completing the permit application was in the cost of drilling and soil tests to identify the soil structure of the landfill site. The Village Engineer had notified the Village President that the cost of obtaining such information would approximate \$4,000 and it was decided that the Village could not justify such an expenditure.

Following receipt of the Complaint, the Village of Rockton applied for a variance from the permit requirement (See: PCB 75-210). The Village President testified that he does not intend to operate the landfill without a variance.

It was the custom of the Village of Rockton to accept oil cans, paper (in bundles or bags), trees and brush at this landfill. Tires, lumber and metal appliances were also observed at the site. No garbage was accepted.

After July 27, 1974 the Village of Rockton apparently accepted only landscape waste for burial at the site. Metal appliances and tires were received and were put aside until a later date when they could be hauled to a junkyard for recycling. An employee of the Environmental Protection Agency testified that the Village of Rockton was cooperative and was in general compliance with the landfill regulations, except for the requirement that a permit be obtained and the requirement that cover be applied on a daily basis. The record indicates, however, that the site is subject to flooding from the Rock River and for this reason there may be serious doubt of the suitability of the site for a landfill.

We find that Respondent Village of Rockton has operated a solid waste management site without a permit, as charged. Respondent shall be ordered to cease and desist from this activity. Rockton shall not reopen the site and use it for a landfill unless authorized to do so by variance or an appropriate operating permit. We shall not impose any monetary penalty in this case. The Village President had closed the site prior to the filing of the Complaint

and has testified that it will not be reopened unless a variance is granted. Therefore, we believe that a monetary penalty is not required in order to enforce the statute and the regulation in this instance. The fact that the Village had actually applied for a permit (although with an incomplete application) prior to the deadline and is obviously not in a position to pay any substantial monetary penalty are mitigating factors. The minimal use made of this facility also mitigates against imposition of a monetary penalty.

This Opinion constitutes the findings of fact and conclusions of law of the Illinois Pollution Control Board.

ORDER

It is the Order of the Pollution Control Board that Respondent Village of Rockton cease and desist from operating a solid waste management site without an operating permit. The landfill in question shall not be reopened by the Village of Rockton unless an appropriate operating permit or variance has first been issued.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 18th day of September, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board