## ILLINOIS POLLUTION CONTROL BOARD February 15, 1979

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)		
Complainant,	) ) )		
V.	)	PCB	78-31
A. E. MARKGRAF and OCOYA LANDFILL CO., a Delaware corporation,	) ) )		
Respondents.	)		

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

THOMPSON AND STRONG, ATTORNEYS AT LAW (MR. THOMAS BLAKEMAN, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENTS.

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

This matter comes before the Board on the February 6, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that, from July 29, 1974 until the date of filing of the Complaint, the Respondents operated a solid waste disposal site in Livingston County without an Operating Permit issued by the Agency in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that, from September 18, 1974 until the date of filing of the Complaint (including 18 separate, specified dates between 1974 and 1977), the Respondents failed to place adequate daily cover material on exposed refuse in violation of Rule 301 and Rule 305(a) of Chapter 7: Solid Waste Regulations and Section 21(a) and Section 21(b) of the Act. Count III of the Complaint alleged that, from July 29, 1974 until the date of filing of the Complaint (including 17 separate, specified dates between 1974 and 1977), the Respondents failed to place adequate final cover over portions of the landfill in violation of Rule 301 and Rule 305(c) of Chapter 7: Solid Waste Regulations and Section 21(a) and Section 21(b) of the A hearing was held on December 27, 1978. The parties filed a Stipulation and Proposal for Settlement on January 3, 1979.

Ocoya Landfill Company ("Ocoya") is a Delaware corporation authorized to do business in Illinois. A. E. Markgraf is President and Registered Agent for Ocoya. A. E. Markgraf leases land in Livingston County between Ocoya and Chenoa, Illinois (the "site").

Since sometime prior to July 29, 1974, the Respondents have caused or allowed the operation of a solid waste disposal site on this property. In that time period, the Respondents have accepted garbage and other refuse generated by activities other than their own activities at the site. Prior to the filing of the Complaint in this matter, neither Respondent had ever applied for or obtained an Operating Permit from the Agency for the site. (Stipulation, p.3).

Inspections of the site by Agency personnel revealed apparent violations of the daily cover requirement of Rule 305(a) of Chapter 7: Solid Waste Regulations on each of the following dates: September 18, 1974; October 24, 1974; December 2, 1974; February 6, 1975; February 27, 1975; March 26, 1975; July 31, 1975; October 3, 1975; November 19, 1975; January 16, 1976; February 23, 1976; May 20, 1976; May 21, 1976; September 29, 1976; September 30, 1976; April 6, 1977; and May 3, 1977. (Stipulation, p. 3). Additionally, inspections of the site by Agency personnel revealed apparent violations of the final cover requirement of Rule 305(c) of the Board's Solid Waste Regulations on each of the following dates: July 29, 1974; September 18, 1974; October 24, 1974; December 2, 1974; February 6, 1975; February 27, 1975; March 26, 1974; July 31, 1975; October 3, 1975; May 20, 1976; May 21, 1975; September 29, 1976; September 30, 1976; January 13, 1977; April 6, 1977; May 3, 1977; and September 7, 1977.

The parties stipulate that the Respondents caused or allowed the violations alleged in the Complaint pertaining to the lack of an Operating Permit. In regard to the allegations concerning the lack of daily and final cover, the Agency submits that it would present evidence, if a full hearing were held, establishing violations on the previously specified dates. For their part, Respondents submit that they are without sufficient knowledge with which to admit or deny any such violations. (Stipulation, p. 5).

After the filing of the Complaint in this matter, the Respondents (by agreement with the Agency) submitted plans to the Agency along with applications for appropriate permits for the site. A supplemental permit for modification of the site was issued on May 18, 1978, and, on November 2, 1978, an Operating Permit was issued by the Agency. Since the filing of the Complaint in this matter, the subject site has been under the active supervision of the Respondents and will continue to be under the active supervision of the holder of the Operating Permit. Also, recent inspections of the site by Agency personnel have revealed substantial improvement in the day-to-day operation of the site. (Stipulation, p. 6).

The parties agree that the suitability of the location of this solid waste management site should not be at issue here, as the site has been approved and permits now have been issued by the Agency. The parties also agree that the efforts to date made by the

Respondents were technically practicable and economically reasonable means of bringing the site into compliance with the Act and applicable Board Solid Waste Regulations. (Stipulation, p. 6). The proposed settlement agreement provides that the Respondents, A. E. Markgraf and Ocoya Landfill Co., should be found in violation of the Act and specified Solid Waste Rules, cease and desist from further violations, and pay a stipulated penalty of \$1,000.00 for which both named Respondents shall be jointly and severally liable.

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. Accordingly, the Board finds that the Respondents, A. E. Markgraf and Ocoya Landfill Co., have violated Rules 202(b)(1), 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Act. The Board hereby imposes the stipulated penalty of \$1,000.00 against the Respondents, for which both named Respondents shall be jointly and severally liable.

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

## ORDER

It is the Order of the Illinois Pollution Control Board that:

- 1. The Respondents, A. E. Markgraf and Ocoya Landfill Co., have violated Rules 202(b)(1), 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Act.
- 2. The Respondents, A. E. Markgraf and Ocoya Landfill Co., shall cease and desist all further violations.
- 3. Within 45 days of the date of this Order, the Respondents, A. E. Markgraf and Ocoya Landfill Co. jointly and severally shall pay the stipulated penalty of \$1,000.00, payment to be made by certified check or money order to:

State of Illinois Fiscal Services Division Illinois Environmental Protection Agency 2200 Churchill Road Springfield, Illinois 62706

4. The Respondents, A. E. Markgraf and Ocoya Landfill Co., shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed January 3, 1979, which is incorporated by reference as if fully set forth herein.

Illinois Pollution Control Board