

ILLINOIS POLLUTION CONTROL BOARD
February 15, 1979

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 78-206
)	
CITY OF McLEANSBORO,)	
a municipal corporation,)	
)	
Respondent.)	

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

BONAN AND BONAN, ATTORNEYS AT LAW (MR. WILLIAM BONAN, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 31, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that from July 27, 1974 until the date of filing of the Complaint, the City of McLeansboro (the "City") operated a solid waste management site and refuse disposal operation in Hamilton County without the requisite Agency Operating Permit 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 March 1, 1978 until the date of filing of the Complaint, the Respondent failed to deposit all refuse into the toe of the fill or into the bottom of the trench at the site in violation of Rule 301 and Rule 303(a) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. Count III alleged that, from January 1, 1976 until the date of filing of the Complaint, the City failed to properly spread and compact refuse in violation of Rule 301 and Rule 303(b) of Chapter 7: Solid Waste Regulations, and Section 21(b) of the Act. Count IV of the Complaint alleged that, from April 1, 1975 until the date of filing of the Complaint, the Respondent failed to place adequate daily cover on exposed refuse at the site in violation of Rule 301 and Rule 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. Count V of the Complaint alleged that, from October 1, 1976 until the date of filing of the Complaint, the City failed to place

suitable final cover over various portions of the site in violation of Rule 301 and Rule 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. Count VI of the Complaint alleged that, from May 1, 1975 until the date of filing of the Complaint, the City failed to provide adequate measures to monitor and control leachate in violation of Rule 301 and Rule 314(e) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. A hearing was held on January 29, 1979. The parties filed a Stipulation and Proposal for Settlement on January 30, 1979.

The Respondent, the City of McLeansboro, is an Illinois municipal corporation located in Hamilton County. The Respondent owns approximately 40 acres of land in Livingston County which lies outside the city limits and to the south of the City of McLeansboro (the "site"). Since sometime prior to July 1, 1970, the City has caused or allowed the operation of a solid waste disposal and management site on this property, and since July 1, 1970, the Respondent has accepted garbage and other refuse generated by activities other than those of the City at the site. (Stipulation, p. 2). The Respondent's refuse disposal operation serves approximately 10,010 people in McLeansboro and Hamilton County.

Prior to the filing of the Complaint in this matter, the Respondent had never applied for or obtained an Operating Permit from the Agency for the site in question. (Stipulation, p. 3). Inspections of the landfill 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: April 11, 1975; May 22, 1975; August 6, 1975; January 29, 1976; May 20, 1976; October 28, 1976; November 10, 1976; January 18, 1977; May 19, 1977; November 9, 1977; February 16, 1978; March 30, 1978; and May 11, 1978. Additionally, inspections of the site by Agency personnel revealed apparent violations of the final cover requirement of Solid Waste Rule 305(c) on each of the following dates: October 28, 1976; November 10, 1976; May 19, 1977; November 9, 1977; February 16, 1978; March 30, 1978; and May 11, 1978.

Subsequent to the filing of the Complaint in this matter, the City of McLeansboro (by agreement with the Agency) submitted plans and applications to the Agency for appropriate permits for the site. A Development Permit for modification of the site was issued on November 13, 1978. However, a pre-operational inspection of the site conducted by the Agency since that date revealed that the site had not been prepared in accordance with the plans and specifications upon which the Development Permit was based, and later it was discovered that these plans and specifications were based on inaccurate information. Thus, updated and more accurate information will need to be filed by Respondent so that a new Development Permit can be issued. (Stipulation, p. 5).

Moreover, since the filing of the Complaint, the Respondent has been actively seeking to acquire a new site to develop as a solid waste management site to replace the present landfill. The parties submit that there is currently sufficient material available at the present site to cover its filled portions in accordance with the Board's Solid Waste Regulations. (Stipulation, p. 6).

The parties agree that the suitability of the location of this solid waste management site is not at issue here, as it is possible for this site to be properly developed and operated. Furthermore, it is stipulated that the efforts to be made by the Respondent constitute technically practicable and economically reasonable means of bringing the site into compliance with the Act and applicable Board Solid Waste Regulations. The parties have also stipulated that the City of McLeansboro caused or allowed the violations alleged in Counts I, IV and V of the Complaint (i.e., failure to have an Operating Permit and failure to apply adequate daily cover and final cover). Additionally, the parties submit that Counts II, III and VI of the Complaint should be dismissed. (Stipulation, p. 5).

The proposed settlement agreement provides that the City of McLeansboro: (1) has violated Rules 202(b)(1), 301, 305(a) and 305(c) of Chapter 7: Solid Waste Regulations and Section 21(b) and 21(e) of the Act; (2) shall cease and desist from further violations; (3) shall follow a specified compliance schedule to bring its site into compliance with the Act and the applicable Board Solid Waste Regulations; and (4) shall pay a stipulated penalty of \$500.00 .

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 Respondent, the City of McLeansboro, has 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 \$500.00 against the Respondent.

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 Respondent, the City of McLeansboro, has 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. Counts II, III and VI of the Complaint are hereby dismissed.

3. The Respondent, the City of McLeansboro, shall cease and desist all further violations.

4. The Respondent, the City of McLeansboro, shall bring its site into compliance with the Act and applicable Board regulations in accordance with the following schedule:

a. Respondent will submit new plans and specifications necessary for the issuance of a new Development Permit for the present site within 30 days of the final Board Order adopting this agreement;

b. Respondent will apply for an Operating Permit for the present site within 45 days of the issuance of said new Development Permit;

c. Respondent shall place cover material over all filled portions of the present site, in accordance with Board regulations, within 45 days of the final Board Order adopting this agreement; and

d. Respondent shall continue to use diligent efforts to locate and obtain an adequate new site to replace the present site.

5. Within 45 days of the date of this Order, the Respondent, the City of McLeansboro, shall pay the stipulated penalty of \$500.00, 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

6. The Respondent, the City of McLeansboro, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed January 30, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of February, 1979 by a vote of 3-0.

Christan L. Moffett/ss
Christan L. Moffett, Clerk
Illinois Pollution Control Board