

ILLINOIS POLLUTION CONTROL BOARD  
November 10, 1977

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 77-130  
 )  
 LOMAX CANNING CO., INC., an Illinois )  
 Corporation, )  
 Respondent. )

MRS. ANNE L. CARR, ASSISTANT ATTORNEY GENERAL, APPEARED FOR  
THE COMPLAINANT.  
MR. LYMAN L. FORT, OF FORT & FORT, APPEARED FOR THE RESPONDENT.

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

I. LEGAL BACKGROUND

This matter comes before the Board upon the May 12, 1977  
Complaint of the Environmental Protection Agency (Agency) charging  
Lomax Canning Co., Inc. (Lomax), an Illinois corporation, with  
violations of Section 305(c) of Chapter 7: Solid Waste  
Regulations (Chapter 7) and Section 21(b) of the Environmental  
Protection Act. (Act). A hearing was held on October 20, 1977.  
The parties filed a Stipulation and Proposal for Settlement  
on October 12, 1977.

II. FACTUAL BACKGROUND

Beginning sometime before March 13, 1975, Lomax has owned  
a low-lying farm field containing a pond located in Lomax, Henderson  
County, Illinois. Lloyd Sparrow, an agent and employee of  
Lomax, had physical control over the property until his death  
on March 13, 1975. At that time Lomax assumed direct physical  
control over the site.

Since at least 1972, and continuing until January 23, 1974,  
the property has been used for random dumping of automobiles and  
other refuse by the public. Lomax has never used the property for  
disposal of its own refuse (R.6,8). This refuse was not removed  
from the pond, compacted, and covered with a suitable final  
cover until after the filing of this Complaint.

Lomax admits, in the stipulation, of causing or allowing the operation of a sanitary landfill in violation of Rule 305(c) of Chapter 7 and Section 21(b) of the Act.

### III. STIPULATION AND SETTLEMENT

In the Stipulation and Proposal for Settlement, Lomax agrees to comply with the sanitary landfill closure requirements contained in Rule 318 of Chapter 7. In addition, Lomax agrees to pay a penalty of \$500.00.

The Board accepts the Stipulation and Proposal for Settlement filed by the parties and finds Lomax in violation of Rule 305(c) of Chapter 7 and Section 21(b) of the Act. The Board assesses the stipulated penalty of \$500.00.

This Opinion and Order constitutes the findings of fact and conclusions of law of the Board.

#### ORDER


It is the Order of the Pollution Control Board that:

1. Lomax is in violation of Rule 305(c) of Chapter 7 and Section 21(b) of the Act since March 13, 1975.
2. Lomax shall pay the sum of \$500.00 as a penalty for the aforesaid violations, payment to be made within 30 days of the date of this Order by certified check or money order to

State of Illinois  
Fiscal Services Division  
Illinois Environmental Protection Agency  
22000 Churchill Road  
Springfield, Illinois 62706

3. Lomax shall comply with all terms and conditions of the Stipulation and Proposal for Settlement filed October 12, 1977, 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 10<sup>th</sup> day of November, 1977 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board