

ILLINOIS POLLUTION CONTROL BOARD
October 30, 1975

CITY OF BELOIT, WISCONSIN,)
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 Petitioner,)
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)
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 v.) PCB 75-229
)
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 ENVIRONMENTAL PROTECTION AGENCY,)
)
)
 Respondent.)

MR. FRANK M. COVEY, JR. and LOUIS M. RUNDIO, JR., appeared on behalf of Petitioner;
MR. JEFFREY S. HERDEN, appeared on behalf of Respondent.

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

Petitioner filed a Variance Petition and a Permit Appeal on June 2, 1975. On June 3, 1975 Petitioner amended its Petition. The Environmental Protection Agency (Agency) filed a Recommendation to grant the Variance subject to certain conditions on August 27, 1975. This Recommendation was amended on September 4, 1975 and September 29, 1975. A hearing was held on August 26, 1975 in Rockton, Illinois. At the hearing a settlement was outlined between the parties which was subsequently ratified by the Beloit City Council on September 15, 1975. Petitioner filed a copy of the resolution authorizing settlement and the memorandum in support of the variance petition on September 26, 1975.

Petitioner, a Wisconsin city, operates a landfill located on a 32-acre site near the intersection of Highway 51 and Prairie Hill Road, in Roscoe Township, Winnebago County, Illinois. The landfill is used to dispose of refuse from Wisconsin generated in the City of Beloit and Beloit and Turtle Townships. The City of South Beloit, and the Townships of Rockton and Roscoe located in Illinois, dispose of their refuse at the landfill. Approximately 300 cubic yards of refuse are accepted daily. Sand and gravel were excavated from the site prior to 1946. From 1946 to 1965 the site was used as a trash disposal facility. Petitioner states that in 1965 it proceeded to upgrade the site into a sanitary landfill. Petitioner

contends that the site was operated so as to comply with the requirements of the Illinois Sanitary Water Board (SWB) and the Division of Sanitary Engineers of the Illinois Department of Public Health. The Agency maintains that from at least 1961 on the Department of Public Health records indicate that the contaminants from materials in the landfill would have a direct access to the ground water reservoir (Agency Exhibit B).

Petitioner seeks a variance from the permit requirements found in Section 21(e) of the Illinois Environmental Protection Act (Act) and Rules 202(b) and 316(b) of the Solid Waste Regulations. Petitioner originally sought the variance to continue operations for one year in order to dispose of refuse from its own city and from the other neighboring areas.

Petitioner also challenges the Agency denial of permit applications. In challenging the permit denial, Petitioner puts forth numerous arguments. However, as a result of the settlement presented, these issues are moot as Petitioner has agreed to withdraw its permit appeal should the Board grant the variance to allow the closing of the site (Paragraph 6 Memorandum of Petitioner (September 26, 1975)).

Petitioner specifically denies that the landfill has contributed to any pollution of surface or ground water (Resolution of City Council, No. 4671 (September 26, 1975)). The Agency, on the other hand, contends that potential for contamination of ground water exists and that actual monitoring data collected during July, 1975 demonstrates that contamination is indeed occurring (pp. 5, 6, of Agency Recommendation). Mr. Richard Miller who lives approximately one block west of the landfill testified that his well water is discolored and smells (R. 11). Although Petitioner has not presented a strong case which would normally warrant a variance, the Board has determined that the settlement presented represents an environmentally sound method of abating problems associated with this landfill. Petitioner has been in constant contact with the Agency regarding the required permit for which it has applied and reapplied numerous times. Therefore, we have decided to grant the variance from June 2, 1975 until October 18, 1975 subject to the agreed to conditions which are set forth in the Order which follows.

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

ORDER

The permit appeal is hereby dismissed.

The City of Beloit, Wisconsin is granted a variance from June 2, 1975 until October 18, 1975 from Section 21(e) of the Act and Rules 202(b) and 316(b) of the Solid Waste Regulations subject to the following conditions:

1. That the variance be granted only up to and including October 18, 1975;
2. That during the term of the variance, Petitioner comply with all requirements of Chapter 7, especially those relating to daily, intermediate and final cover;
3. That on October 18, 1975, Petitioner cease accepting refuse, close its site and begin final covering of the site;
4. That Petitioner apply final cover in conformance with the recommended procedures explained in paragraph 17 of the Agency Recommendation;
5. That Petitioner ensure that the north and east slopes are not less than 4 to 1, with a minimum of 4 feet of seeded and stabilized cover material on these side slopes as per paragraph (d) of Petitioner's July 22, 1974, permit application;
6. That Petitioner conduct a ground and surface water monitoring program as described in paragraph 1 of the Agency's November 1, 1974 letter (Petitioner's Exhibit I), and as further described and expanded in paragraph 9 of the Agency Recommendation;
7. That if Agency inspections on or before May 31, 1976 reveal substantial leaching from the site, that Petitioner complete construction of the clay berm around the north and east sides of the site and channel surface water and whatever leachate might emerge from these side slopes to a clay-lined retention pond to be constructed on the southeast portion of the site, as per paragraph 3 of the Agency letter dated November 1, 1974 (Petitioner's Exhibit I), and in accordance with sketches and description contained in Petitioner's November 27, 1974, application (Petitioner's Exhibit J).

8. That Petitioner shall collect any surface water and/or leachate from the retention pond and other ponded areas and transport same to its sewage treatment plant for treatment, as per Petitioner's November 27, 1974, application (Petitioner's Exhibit J), and as per Stanley J. Goldsmith's October 24, 1974, letter to Frank J. Zuicarelli, (Agency Exhibit I);

9. That, within sixty (60) days of the date of the Board's Order in this case, Petitioner submit to the Board and the Agency, a plan subject to Agency approval for site maintenance after closure, in compliance with Rule 318 of Chapter 7: Solid Waste Regulations;

10. That Petitioner complete the application of intermediate cover by no later than November 30, 1975 and complete applying and grading final cover, and all other requirements of subparagraphs (e) through (h) above as soon as possible and in no event later than July 31, 1976;

11. That Petitioner begin seeding operations as soon as weather permits in Spring, 1976 and complete seeding by no later than July 31, 1976; and

12. Within 28 days after the date of the Board Order herein the Petitioner shall execute and forward to the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, and to the Pollution Control Board a Certification of Acceptance and agreement to be bound to all terms and conditions of the variance. The form of said certification shall be as follows:

I, (We), _____, having read and fully understanding the Order of the Illinois Pollution Control Board in PCB 75-229 hereby accept said Order and agree to be bound by all of the terms and conditions thereof.

Signed _____

Title _____

Date _____

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 30th day of October, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board