

ILLINOIS POLLUTION CONTROL BOARD
September 18, 1980

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 79-256
)
ESL, INCORPORATED, AND WASTE)
MANAGEMENT OF ILLINOIS, INC.,)
)
Respondents.)

INTERIM ORDER OF THE BOARD (by J.D. Dumelle):

The Illinois Environmental Protection Agency (Agency) and ESL, Incorporated (ESL) and Waste Management of Illinois, Inc. (Waste Management) filed a Stipulation and Proposal for Settlement on August 18, 1980. The First Amended Complaint (Complaint) filed by the Agency on December 6, 1980, alleged, among other things, that ESL and Waste Management had violated certain provisions of the Environmental Protection Act (Act) and Chapter 7 of the Board Regulations (Solid Waste Rules).

Hearing was held on August 18, 1980, at which time the Stipulation and Proposal for Settlement was entered into evidence. Thereafter, several members of the public testified and objected to the stipulation.

The Board cannot accept the Stipulation and Proposal for Settlement in its present form for three reasons.

First, Count IV of the Complaint alleges a violation of Section 12(d) of the Act which proscribes depositing "contaminants upon the land... so as to create a water pollution hazard." At the hearing, several witnesses referred to their drinking water as having recently become unfit to drink or to bathe in or to do laundry due to its bad taste, odor and unsanitary condition (R.43,45,49-51). However, the Proposal for Settlement does not offer any remedy for this. The Board cannot determine from the record the cause of the poor water quality and if a cease and desist order would be a sufficient remedy or whether new wells or water supply main lines would have to be constructed if Respondents are the cause.

Second, adverse health effects are alleged in Count III to establish a violation of Section 9(a) of the Act, proscribing air pollution. Several residents from the area testified as to the


need to leave their homes, asthma attacks, nausea, vomiting, and the inability to use outside recreational areas due to the discharge of odors from the lagoons allowed by Respondents (R.13-18,21,34,37-39). However, the record is unclear as to whether these health effects have abated or whether they are permanent. Therefore, it is impossible for the Board to determine whether a cease and desist order is sufficient to remedy this aspect of the problem or whether previously deposited materials must be removed.

Third, due to the above-noted deficiencies, the Board cannot determine whether the proposed penalty is appropriate.

For these reasons, the Proposal for Settlement is hereby rejected and the case is remanded to the Hearing Officer for further proceedings.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 18th day of September, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board