

ILLINOIS POLLUTION CONTROL BOARD
February 1, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-312
)
CITY OF MARION,)
)
Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

FWLER & NOVICK, ATTORNEYS AT LAW (MR. WILLIAM NOVICK, 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 November 30, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On February 6, 1978, the Complainant filed a Motion for Leave to Amend Complaint, and the Board granted this motion on February 16, 1978. Count I of the Amended Complaint alleged that, from April 14, 1977 until the date of filing of the Amended Complaint, the City of Marion operated a solid waste management site in Williamson County without an Agency Operating Permit in violation of Rules 201 and 202(a) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act ("Act"). Count II of the Amended Complaint alleged that, on specified dates between April 14, 1977 and the filing of the Complaint, the City of Marion operated its site in such a manner as to: allow the open dumping of refuse; improperly unload, spread, and compact refuse; and place inadequate daily cover on all exposed refuse in violation of Rules 301, 303(a), 303(b), and 305(a) of Chapter 7: Solid Waste Regulations and Section 21(b) of the Act. Count III of the Amended Complaint alleged that the Respondent failed to take adequate measures to control dust and vectors in violation of Rules 301 and 314(f) of the Board's Solid Waste Regulations. A hearing was held on December 19, 1978. The parties filed a Stipulation and Proposal for Settlement on December 28, 1978.

The Respondent, the City of Marion (the "City"), is a municipal corporation organized under the laws of the State of Illinois and located in Williamson County, Illinois. Just prior

to April 4, 1977, the City leased 9.14 acres of land (the "site") in Williamson County, Illinois from Mr. William Cadle of Marion, Illinois. Since just prior to April 4, 1977, the City has been, and currently is, responsible for all activities at the site. It is stipulated that, on April 4, 1977, the City, fully aware of the need for an Operating Permit, commenced operation of a landfill, accepting and depositing refuse not generated by the City's own activities, at the subject site. The Respondent has conducted such activities at the property since April 4, 1977, and continues to conduct these activities there. (Stipulation, p. 2). However, the Agency has never issued an Operating Permit to the City of Marion for such operations.*

Since April 4, 1977, Agency personnel have made inspections of the subject site on 10 different occasions. These inspections revealed the following admitted violations of the Board's Solid Waste Regulations and the Act (See: Stipulation, p. 4-9): (1) On April 20, 1977, April 21, 1977, May 19, 1977, May 20, 1977, January 4, 1978, March 29, 1978, July 11, 1978, August 4, 1978, September 15, 1978 and October 4, 1978, suitable daily cover had not been placed on all exposed refuse; (2) On September 15, 1978, and October 4, 1978, adequate final cover had not been placed on portions of the site; (3) On April 20, 1977, April 21, 1977, January 4, 1978 and August 4, 1978, refuse had not been deposited into the toe of a fill or into the bottom of a trench; (4) On April 20, 1977, April 21, 1977, May 19, 1977, May 20, 1977 and January 4, 1978, refuse deposited at the toe of a fill had not been spread and compacted in layers within the cell; (5) On April 20, 1977, May 19, 1977, May 20, 1977 and August 4, 1978, adequate measures to control vectors had not been taken at the site, in that numerous flies (which are capable of transmitting, directly or indirectly, various infectious diseases) were observed; (6) On April 20, 1977, April 21, 1977, September 15, 1978 and October 4, 1978, there was evidence that refuse was, and had been, standing in ponded water; (7) On September 15, 1978 and October 4, 1978, there was evidence of ponded leachate at the site; (8) On May 19, 1977, May 20, 1977, August 4, 1978 and September 15, 1978, refuse odors emanating from the site were detected; and (9) On August 4, 1978, September 15, 1978 and October 4, 1978, sludge had been deposited and on the latter two dates mentioned above, sludge was observed in standing water and sludge odors were detected. (See: Stipulation, p. 3-5).

*On September 8, 1978, the Agency issued a Development Permit to the City of Marion to authorize the Respondent to develop a solid waste disposal site at the property in question to handle general municipal waste, excluding all liquid and/or hazardous waste.

It is also stipulated that, on April 20, 1977, April 21, 1977, May 19, 1977, May 20, 1977, January 4, 1978, July 11, 1978, September 15, 1978 and October 4, 1978, the City of Marion or an agent of the City was notified, at the time of the inspections described, of the operational problems regarding the site on the particular days in question. (Stipulation, p. 5-6). Furthermore on May 4, 1977, June 7, 1977, January 18, 1978, April 6, 1978, July 26, 1978 and September 25, 1978, the Agency sent letters to the Respondent notifying the City of the problems described above. (See: Exhibits A through F**). The City's Mayor wrote three letters (on February 1, 1977, May 10, 1977, and January 24, 1978) in response to the letters sent by the Agency. (See: Exhibits G, H and I). During the Agency inspections of this landfill operation, photographs were taken which accurately depict the conditions observed at the site. (See: Exhibits J through W).

The parties also agree that, since May of 1977, sludge generated by the City sewage treatment plant has been transported in open, uncovered, dump trucks to the landfill and deposited on the ground and in trenches at the site and has been left uncovered. The Agency has never issued to the City, and the City of Marion has never applied for, a supplemental permit authorizing the City to accept and deposit sludge at the landfill. (Stipulation, p. 7). Additionally, pathological wastes have been accepted and deposited at the site since May of 1977. The Agency has never issued to the City, and the Respondent has never applied for, a supplemental permit authorizing the City of Marion to accept and deposit pathological wastes. (Stipulation, p. 7).

It is also stipulated that, on January 5, 1978, at about 2 P.M., a pile of refuse the size of a single story home began to smoke. By 5 P.M., the pile of refuse was flaming and continued to flame until approximately 3 A.M. on January 6, 1978. The pile of refuse continued to smolder for the rest of the day. Residents in the immediate area were concerned about the safety of their homes and property during the fire. During September of 1978, a fire again occurred at the site and flamed from approximately 2 A.M. to approximately 6 A.M. one morning. The refuse continued to smolder until approximately 9 A.M. (Stipulation, p. 8).

There are several homes in the immediate vicinity of the City's landfill, the closest one being about 200 yards from an

**All exhibits are incorporated by reference into the Statement of Stipulated Settlement.

area of the site where refuse has been deposited. Since April 4, 1977, residents of the immediate area have detected, on a regular basis, refuse odors emanating from the subject site. Neighborhood residents have also detected strong sludge odors emanating from the property since May of 1977 on a regular basis. These odors have detrimentally affected the enjoyment and use of their homes and property. Various residents who live in the vicinity of landfill have notified City officials of some of their concerns regarding the City of Marion's solid waste management site. Residents in the area of the site are of the opinion that refuse has been regularly left uncovered since April 4, 1977, and while they do not object to the fact that a landfill operation is being conducted very close to their homes, they do object to the subject site being operated improperly and in violation of the Act and the Board's Solid Waste Regulations. (Stipulation, p. 8-9; See: Exhibits X and Y). Additionally, observations by neighborhood residents and Agency inspectors indicate that the City of Marion conducted operations without adequate operable equipment for at least 20 days since April 4, 1977. (Stipulation, p. 10-11). Moreover, cover material was not placed on large quantities of refuse for at least four weeks prior to the fire that occurred on January 5, 1978. (Stipulation, p. 11).

The Agency and the City of Marion have stipulated that it is both technically practicable and economically reasonable to comply with the Board's Solid Waste Regulations and the Act, and the parties have agreed upon the following proposed Compliance Plan and Settlement Program: (1) the City of Marion will obtain an Operating Permit from the Agency within 30 days of entry of the Board Order in this cause. If the City does not obtain an Operating Permit from the Agency within 30 days of entry of the Board Order, all landfill operations at the site will cease at the close of the 31st day after entry of the Board Order; (2) hot wastes, hazardous wastes, liquid wastes, and sludge will not be deposited at the site until the appropriate supplemental permits are obtained by the City from the Agency; (3) the City will cease and desist from violations of the Board's Solid Waste Regulations and the Act; (4) the City will follow the proper methods of operation pertaining to the unloading, spreading and compacting of refuse which are delineated in Rule 303 of Chapter 7: Solid Waste Regulations and will follow the cover requirements specified in Solid Waste Rule 305; (5) the City will take adequate measure at the site to control vectors, prevent fires, and prevent odors from emanating from the landfill; (6) the City will pay a stipulated penalty of \$3,000.00 within 30 days of entry of the Board Order in this case; and (7) it is stipulated that the settlement agreement resolves all controversies regarding the allegations of violations by the City for the period of the Complaint and that a new Complaint, alleging the same violations for the same period of time in the Complaint, cannot be filed by the Complainant at a later date.

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 Illinois Environmental Protection Act. Accordingly, the Board finds that the Respondent, the City of Marion, has violated Rules 201, 202(a), 301, 303(a), 303(b), 305(a) and 314(f) 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 \$3,000.00 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 Marion, has violated Rules 201, 202(a), 301, 303(a), 303(b), 305(a) and 314(f) of Chapter 7: Solid Waste Regulations and Section 21(b) and Section 21(e) of the Illinois Environmental Protection Act.
2. The Respondent, the City of Marion, shall cease and desist all further violations.
3. Within 30 days of the date of this Order, the Respondent, the City of Marion, shall pay the stipulated penalty of \$3,000.00, 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 Respondent, the City of Marion, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 28, 1978, which is incorporated by reference as if fully set forth herein.

Mr. Goodman abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 1st day of February, 1979 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board