

ILLINOIS POLLUTION CONTROL BOARD

September 18, 1975

VILLAGE OF ROCKTON, )  
 )  
 ) Petitioner, )  
 )  
 vs. ) PCB 75-210  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 ) Respondent. )

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

Village of Rockton seeks a variance from Rule 202(b)(1) (permits) of the Illinois Solid Waste Rules and Regulations. Relief is sought in order that the Village might operate its landfill site 8 hours per week from April through October of each year "without the necessity of obtaining an operating permit", or might obtain a permit "without the necessity of filling out all the information requested in the application for an operating permit".

The municipally owned disposal site is located east of Rockton in Winnebago County, Illinois. According to records of the Illinois State Geological Survey, the site is in an area of abandoned gravel pits and was apparently a gravel pit at one time. Both the glacial drift and the underlying bedrock in the area consist predominately of permeable materials and are used as sources of ground water. Five producing water wells are located within 1/2 mile of this disposal site. The Illinois State Geological Survey states that ground water movement would be downward and to the South into the Rock River.

Petitioner submitted an incomplete permit application to the Agency in April 1974. Materials to be disposed of included about 1,000 lbs. per week of residential cans, brush, grass, papers and old furniture and oil cans, belts and paper from gas stations. This permit application was denied April 26, 1974. In addition to minor omissions, Petitioner was advised that Parts III (Site Characteristics), IV (Construction Plans and Specifications) and V (Operating Plan) would have to be completed before the application could be adequately reviewed. A second permit application was submitted in July 1974 with the only substantial change being the signature of an engineer. This application was denied

on August 19, 1974. No additional permit applications have been submitted. An enforcement case involving this facility is pending before the Board (See: PCB 75-158).

The only reason given for failure to complete the permit application is that Petitioner believes the cost of obtaining the required information is an "unnecessary expense". Village Engineer Richard Johnson estimates that the cost of obtaining the permit will be about \$4,000. Petitioner states that it will achieve compliance "as soon as a practical method of completing the permit application can be worked out which would not cost such an exorbitant amount". According to the Village of Rockton, an Agency employee visited the site in December 1973 at which time he determined that the site was in general compliance. The Engineer noted that there was no permit and there were no sanitary facilities or emergency communications for personnel operating the landfill. Petitioner states that the landfill will be operated in compliance with other Regulations and that its only problem is failure to have an operating permit.

The Agency believes Petitioner's cost estimate is excessive considering that Petitioner now seeks to dispose of landscape waste only. Since landscape wastes have a lower potential for pollution, a permit application for disposal of such wastes "does not require as much detailed information and site planning as that required for the review of a permit for a site disposing of general refuse or hazardous wastes". In the past, the site has not been limited solely to disposal of landscape waste. Neither permit application sought to limit acceptance to landscape waste.

Pending the outcome of the variance and enforcement cases Petitioner has ceased using the disposal site. According to the Agency this indicates that alternative means for disposal are available. Since Petitioner has not shown why landscape waste could not be collected and disposed of along with other Village refuse and since Petitioner has never sought a permit limited to disposal of landscape waste, the Agency claims that arbitrary or unreasonable hardship has not been demonstrated. The Agency recommends denial of this variance.

It is obvious that Petitioner seeks to operate the disposal site as a convenience to the Villagers. However, the fact that refuse other than landscape wastes has been deposited at a site underlaid by permeable materials could jeopardize the health, welfare and physical property of persons near this site.

The Board finds that the suitability of this site has not been established. Also, the record does not contain any substantiation of the cost estimate for completing the permit application. In addition, Petitioner has not shown why these

wastes could not be properly disposed of at the site now accepting other Village refuse or at other nearby Agency approved sites.

Our review of the two permit applications confirms the Agency claim that Petitioner has never submitted a permit application limited solely to the disposal of landscape waste. It is entirely possible that a meeting between Village officials and the Agency could simplify or reduce the amount of detailed information required for issuance of an operating permit. Petitioner has apparently not made such an effort since the last permit application was denied.

The overwhelming concern, however, is the potential for contamination of ground water supplies in this area. Permit requirements for detailed information about this potential cannot be disposed of simply because the site is a convenience to the people of Rockton or because of an unproven cost estimate. Petitioner's plan to wait until it doesn't cost so much is not an acceptable compliance plan. Accordingly, this Petition for Variance must be denied without prejudice.

This Opinion constitutes the findings of fact and conclusions of law of the Illinois Pollution Control Board.

ORDER

It is the Order of the Pollution Control Board that the Variance Petition submitted by Village of Rockton be dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 18<sup>th</sup> day of September 1975 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board