

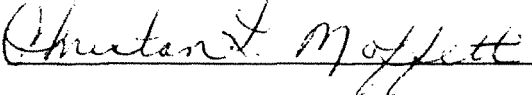
ILLINOIS POLLUTION CONTROL BOARD  
January 24, 1972

ENVIRONMENTAL PROTECTION AGENCY )  
 )  
 v. ) #71-53  
 )  
 CHARLES R. RHODES )

Opinion and Order of the Board on Motion for Modification (by Mr. Currie):

Our order of September 16, 1971 imposed a penalty of \$1500 for violations of the landfill rules. Rhodes asks us to reduce the penalty to \$500 on the basis of the nature of the violation (the material was "to a large part masonry") and "economic hardship," which is supported by an affidavit in the same conclusory language. As the Agency urges, we deny the motion. The Board's initial order was entered on the basis of a hearing in which the full opportunity was given for evidence on all issues, including the nature of the violation and the financial condition of the operator. Only in the most unusual circumstances will we consider retrying issues already concluded, for to do otherwise would mean we would never be through a case. Our reluctance to retry this case is compounded by the lateness of the request, which was made nearly two months after entry of the order. Moreover, there is no allegation of facts to support the conclusory statement that the penalty would impose an economic hardship, and we could not grant relief in any case on the basis of a mere conclusion. Finally, we have no indication that even the reduced penalty would be paid promptly. The motion is hereby denied.

I, Christan L. Moffett, Clerk of the Pollution Control Board certify that the Board adopted the above Opinion and Order this 24th day of January, 1972 by a vote of 3-0.

  
Christan L. Moffett