ILLINOIS POLLUTION CONTROL BOARD
May 23, 1974

ENVIRONMENTAL PROTECTION AGENCY COMPLAINANT	)	
v.	)	PCB 74-74
VILLAGE OF SKOKIE, a municipal Corporation, RESPONDENT	)	

MR. R.W. COSBY, ATTORNEY, in behalf of the ENVIRONMENTAL PROTECTION AGENCY
MR. H. SCHWARTZ, ATTORNEY, in behalf of the VILLAGE OF SKOKIE

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This action involves a complaint filed on February 25, 1974, by the Environmental Protection Agency against the Village of Skokie. An amended complaint was filed on April 9, 1974. The amended complaint was accepted with no objection from Respondent (R. 5). This case thus centers around said amended complaint. The Environmental Protection Agency alleges that the Village of Skokie violated Rule 3-3.232 of the Air Pollution Control Board from July 1, 1970, until December 31, 1973. The complaint also alleges violations of Rule 203 (e) (2) of the Air Pollution Regulations of the Illinois Pollution Control Board from January 1, 1974. Both violations are in respect to the operation of an incinerator (particulates) owned by the Village of Skokie.

The Village of Skokie is a municipal corporation, organized and existing under the laws of the State of Illinois, and is located in Cook County. Respondent owns and operates an incinerator located at 8100 North Central Park Avenue. Said incinerator is used for the handling of village trash. Approximately 33,000 tons of garbage a year are incinerated. The residue from this incinerator is then hauled to a local landfill for disposal. Under unique situations (when the incinerator is down for repair) the Village can haul raw garbage to the landfill on a day-to-day basis.

Respondent has also been the subject of an enforcement action before the U.S. Environmental Protection Agency. Said notice of violation was followed up with a hearing (before the U.S. Environmental Protection Agency) on March 22, 1974. The transcript of this hearing was entered as Exhibit #16 (hereinafter USEPAR). As a result of said hearing the U.S. Environmental Protection Agency issued its order (Exhibit #2) holding that Respondent's plan for abatement was adequate.

The Cook County Department of Environmental Control has also accepted the proposed plan (R. 40). Said plan calls for the shutdown of Respondent's incinerator by August 1, 1974. The abovementioned plan was an outgrowth of the so-called Wegman Report. This report was a study conducted by the villages of Skokie and Niles and the city of Evanstor to assess the options open for garbage handling (USEPAR 17). It contained a proposal that the Village would be better off to abandon its incinerator and go to a landfill operation. Representatives of the state and county, as well as the federal, environmental agencies were present at this hearing.

The reason for the instant action is that the Illinois Environmental Protection Agency did not feel that Respondent's shutdown plan was adequate. The Agency asks that an immediate shutdown order be issued by the Board.

Hearing was held on April 16, 1974. Quite a bit of this hearing was a reiteration of the facts elicited at the U.S. Environmental Protection Agency hearing.

Mr. Manak (assistant director of public works, Village of Skokie) was the main witness. His testimony centered about the Village's defense of the proposed compliance plan. Mr. Manak testified that the Village could shut down its incinerator immediately; however, to do so would put the Village at a potential disadvantage in its bidding process (R. 30-31). Mr. Manak contended that the Village feels that to immediately shut down would cause the three landfill operators in the area to raise their bids. This is based on the theory that if the landfill operators are aware that the Village is committed to a shutdown, they would realize that the options of the Village are limited. Mr. Manak further testified that the Village would be seeking a long-term contract rather than a day-to-day rate. Mr. Manak further testified that the economics of direct handling vs. incineration are not great. The Village would expect an additional cost burden of about two dollars a ton or $66,000/yr. This would extrapolate out to about $6,000 extra costs if the incinerator were to shut down now.

Mr. Cosby (attorney for the Environmental Protection Agency) in his opening remarks (R. 6) drew reference to Environmental Protection Agency vs. City of Evanston, PCB 72-286. This case was cited as a similar action, and it was stated that relief sought in that case should be similar to relief in this case.

There is no dispute that violations have occurred. The Village admitted said violations (R. 9, 10). There were no citizen witnesses present, nor was there any testimony as to the severity of the violation. The only evidence presented as to the extent of violation can be found in the appendix to Exhibit #1. This appendix, the statement of Mr. C. H. Porter, relates that a stack test run on March 2, 1970, had shown a grain loading of 0.287 grains/scf. This is opposed to a 0.08 gr/scf regulatory limit (Rule 203 (e) (2). It must be noted

that Complainant did not at any time enter any evidence as to the severity of the violation (e.g., interference with life in the community). This point is raised because the Board must take Section 33 (c) of the Environmental Protection Act into consideration when rendering a final decision.

The Board takes note of Environmental Protection Agency vs. City of Evanston, PCB 72-286, in which testimony as to interference with living conditions was elicited. In PCB 72-286 a stipulation for settlement was presented. The Board's Opinion in PCB 72-286 states,

> "Testimony of individuals residing near the incinerator clearly shows that operation of the incinerator has unreasonably interfered with the enjoyment of life and property for that period of time. Smoke, particulate matter and odors prevented nearby residents from using their yards, caused irritation of sinus, and caused headaches. Smoke ranged from light grey to dark grey or black. There was precipitation of a black tar-like residue and charred paper; strong acrid odor of burning garbage; soiling of automobiles and home interiors; and uncovered trucks dropped burned garbage material on the streets near the incinerator. Agency calculations reveal particulate emission of .945 grains per standard cubic foot, more than 4 times the allowable rate."

The instant action has no such showing. Also in Evanston the Board's Order for shutdown conformed with the anticipated plans for such a shutdown. A comparison of compliance plans in the two instances sheds some light on this:

	Village of Skokie	Village of Evanston
Complaint filed	Feb. 25, 1974	July 7, 1972
Shutdown plan presented	March 22, 1974	November 21, 1972
Anticipated shutdown	August 1, 1974	April 15, 1973

Thus in both cases the time from presentation of plan to actual shutdown is the same. Although the Village of Evanston has shut down one year before Skokie proposes to do so, there is nothing on the record to show that such delay was unwarranted. The Village of Skokie did indeed hire a consulting firm to attempt to explore its alternatives, and this plan results from this study.

One further point was raised during the U.S. Environmental Protection Agency conference, which is noteworthy. Respondent has nine employees at its village incinerator (USEPAR 56). The additional time would allow the Village to attempt to reassign the employees to other locations.

The Village of Skokie, then, proposes a relatively short compliance plan which the Board finds acceptable. Had this case been one of prov-

en interference with the neighbors or gross violations, the very severe shutdown order would be used. In the instant case no such showing was made. The Board in so finding states that every effort should be made to speed up the Village's bidding process. In the event that bidding can be concluded before August 1st, the Village will be ordered to shut down at such an earlier time.

Violations have indeed been stipulated. The only other question facing the Board is that of penalty. After taking into consideration all of the arguments of Sect. 33 (c) of the Environmental Protection Act, and consideration of the penalty imposed in PCB 72-286, which the Board finds similar, a penalty of $500 seems appropriate.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. The Village of Skokie shall cease operations of its incinerator located at 8100 N. Central Park Avenue by August 1, 1974, or on such sooner date that the Village of Skokie has reviewed bids for landfill operations. The Village of Skokie shall inform the Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, of the following dates:

   A) Date of bids for landfill operators let.
   B) Date of bids received.
   C) Date of cessation of operations.

2. Respondent shall pay to the State of Illinois the sum of $500 within 35 days from the date of this Order. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

IT IS SO ORDERED.
Mr. Dumelle dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 23RD day of May, 1974, by a vote of 4 to 1.