

ILLINOIS POLLUTION CONTROL BOARD
August 1, 1972

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 72-57
)
 CITY OF CAIRO, a Municipality,)
 CAIRO DRAINAGE DISTRICT and)
 DON JONES,)
 Respondents)

Delbert Haschemeyer, Assistant Attorney General for the EPA
George J. Kiriakos, for the City of Cairo

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

The Environmental Protection Agency filed its complaint against the City of Cairo, the Cairo Drainage District and Don Jones, alleging that they had committed numerous violations of the Environmental Protection Act and the Rules and Regulations for refuse disposal sites and facilities. The violations were alleged to have occurred at a landfill located by the Mississippi River levee immediately west of the city.

On the date of the hearing, the Environmental Protection Agency asked leave to dismiss Respondents Cairo Drainage District and Don Jones, and file an amended complaint, alleging that the violations were committed by the City of Cairo. The stipulated facts do not show violations by Cairo Drainage District and Don Jones. Complainant's Motion for Leave to File an Amended Complaint is allowed and Respondents Cairo Drainage District and Don Jones are dismissed from the case.

The stipulated facts show that the City of Cairo operated a landfill on both sides of the Mississippi River levee near the city limits. The dump on the river side of the levee was subject to flooding, and contaminants were deposited on this side of the levee so as to pollute the water. Some refuse was deposited in standing waters. The violations on both sides of the levee also included: open dumping and burning of refuse, open dumping of garbage, failure to spread and compact refuse, failure to cover refuse and garbage, failure to confine dumping to the smallest practical area, failure to provide fencing, on-site shelter and adequate roads, failure to supervise or limit access to the dumping site, and failure to prevent scavenging. The landfill was operated by the City of Cairo without a permit or registration.

In March, 1971 the dump was described as the worst in the region, and in August of 1971 smoke from the burning of refuse could be seen for several miles. Photographs and inspection reports reveal that the respondent made no progress toward compliance with the law during 1970 and 1971 and that the violations during this time were flagrant.

In May, 1971 a newly elected City Council took office. The current Mayor of Cairo, James Walder, took office November 19, 1971 and since that date the city administration has cooperated with the Environmental Protection Agency in solving the landfill problem. Under the new administration, the city has closed and prevented further dumping at the landfill site, has cleaned up and leveled the landfill in accordance with regulations, has applied final cover to part of the river side landfill and plans to complete the application of final cover to both the river side and inside areas as soon as weather permits. Photographs taken in January and February, 1972 show improvement in the appearance of the landfill. Photographs taken in April, 1972 show clean expanses of grass and cover where previously had existed smoking piles of rubbish and garbage.

In addition, the City of Cairo has now obtained a permit, has established an approved landfill at a new location, and has contracted for the collection of garbage and refuse and its disposal at the new landfill, in compliance with the law. The budget for refuse collection has increased from \$16,000 per year to \$107,500 per year.

The EPA and City of Cairo have entered into a settlement agreement which would require the city to cease and desist violations, pay a nominal penalty of \$100.00, apply final cover to the landfill as soon as weather permits and submit monthly reports detailing its progress in the application of final cover.

We approve the settlement.

We have noted that violations in 1970 and 1971 were flagrant, but the new city administration has been vigorous in eliminating those violations. The imposition of penalties against a municipality is a sometimes vexing problem in that the financial burden falls, not upon the responsible city officials, but upon members of the community who, in many cases, were among the victims of the pollution. Here the community has taken the steps necessary to install an administration which would assist in cleaning up the environment, and excellent progress has, in fact, been made. The budget for refuse collection has increased substantially. The purpose of the Environmental Protection Act would not be served by setting aside a mutually agreed settlement and requiring a larger penalty in this case. See: EPA v. City of East St. Louis, 71-26; City of Springfield v. EPA, 70-55.

ORDER

It is hereby ordered:

(1) That Respondent, City of Cairo, cease and desist the aforesaid violations.

(2) That Respondent, City of Cairo, pay to the State of Illinois (Environmental Protection Agency Fiscal Services Division) a penalty of \$100.00.

(3) That Respondent complete the closing of the complained of site by applying final cover in accordance with all applicable Rules and Regulations as soon as weather permits.

(4) That Respondent submit written reports on a monthly basis, detailing the progress in applying final cover, or lack of progress, and the reasons therefor, until such time as final cover has been applied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of August, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board