

ILLINOIS POLLUTION CONTROL BOARD
January 6, 1972

CITY OF ROCKFORD

v.

ENVIRONMENTAL PROTECTION AGENCY

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71-311

Mr. A. Curtis Washburn for City of Rockford

Mr. Alvin Liebling, Assistant Attorney General for Environmental

Opinion of the Board (by Mr. Currie):

Protection Agency

Rockford has virtually run out of landfill space for its continuing flow of refuse. Its present fill operation has resulted in two mounds known as Mt. Trashmore #1 and Mt. Trashmore #2, both of which started as pit operations but which have grown to about 40 and 15 feet above ground level, respectively. The sites were admittedly ill-chosen to begin with, many years ago, in that the underlying strata are pervious sand and gravel. Contaminated matter from refuse decomposition has been found in nearby wells. In recent months the lack of space has become acute. As refuse is piled higher above ground level, compacting and covering it becomes progressively more difficult, so that problems of rodent attraction of blowing litter, and of gas dispersion are increased. Mt. Trashmore #1 has reached such a height that its other dimensions are too small to permit further operations, and its use has been discontinued. It is anticipated that the second mound will reach a similar stage within a matter of weeks.

For some time the City has been seeking a solution to this serious pollution problem, in terms of a new landfill site or a contract for rail haul to a site more remote. One promising site was dropped by the City Council because of local citizen opposition. Another was selected, only to have the legality of the City's zoning outside its borders attacked in the courts. While a decision by the Appellate Court in review of the trial court's order upholding the City is expected at any time, a further appeal is entirely possible, and months or more could intervene before that site might be available. Initial rail-haul bids were rejected as inadequate or inflated, and no further bids have been requested. The City's present intention is to seek approval of still another site, for which it was preparing permit applications at the time of the hearing (November 19). It is unable to say when approval (including rezoning by the County, which is said to be favorable to the project) is likely to be obtained.

In the meantime the City has filed a variance petition seeking permission to deposit refuse in a pit adjacent to its present operations until it settles the long-term landfill question. It estimates that the pit has capacity for about 120 days' refuse. The Agency denied a permit for this pit because it, like the present site, is situated on pervious strata that will permit the leaching of contaminated material. But the Agency recommends that the variance be granted, since something must be done with the refuse and since the pollution would be just as great if the refuse continued to be dumped on top of the present piles. We agree and therefore grant the variance on conditions recommended by the Agency.

Refuse is going to continue being generated in Rockford whether or not a proper disposal site is available. It is clearly preferable that it be deposited below ground in the new pit than on top of the existing mounds, where it cannot even be properly covered or compacted. There is no indication in the record that the City has any short-term alternative to these two courses. We approve the lesser of two evils.

The City agrees to the Agency's conditions regarding covering the bottom of the pit to keep refuse from being dumped into standing water, where its potential for pollution is at its greatest, and for prior Agency approval of the nature of the cover to be used (there having been doubts as to the adequacy of cover material in the past) and of the final proposed contours of the operation. The most critical condition suggested, however, is that requiring the City to make its decision on a permanent solution within 30 days and to institute that solution--whether by rail haul or by use of an alternative site of its own--within 100 days after our order. The City says that it cannot guarantee when it will complete its arrangements because of legal and other uncertainties. Of course it cannot. But we think it imperative to set a date beyond which the City will be subject to enforcement proceedings if it does not reach a solution to the present intolerable situation. If the City can show it has done all it can, it may be entitled to additional relief at a later date. Today, however, we shall limit the variance to 120 days. The situation must be allowed to continue.

One additional condition is imperative. It is admitted that there is now and will continue to be water pollution from leaching at the landfill site, which must not be permitted to go on. We shall require the City to submit within 60 days a report as to methods of preventing leaching to the waters after dumping at the site is completed.

It is unfortunate that the City allowed matters to come to the present pass without finding an appropriate solution. As this case shows, it can take a long time to arrange for a landfill, and perhaps the City should have started its search sooner. We are tempted to hold that no city that acts with proper foresight runs out of landfill space, since the time when a new site will be needed can be rather accurately predicted. But the Agency has not asked that we impose penalties as a

condition of the present variance, and we do not do so, since the City has not had an opportunity to show any justification it may have for the delay. We stress that the City must do everything it can to solve its problem as quickly as it can and that we expect that in the future cities will not allow themselves to run out of landfill space.

ORDER

The City of Rockford is hereby granted a variance for 120 days after receipt of this order from those portions of the Rules and Regulations for Refuse Disposal Sites and Facilities that would prevent issuance of a permit to deposit refuse in the Sahlstrom pit, as described in the record, on the following conditions.

1. Before refuse is deposited, the bottom of the pit shall be graded, and fill material acceptable to the Agency shall be placed in order to preclude the dumping of solid waste into water; and
2. The cover material for this operation shall be approved by the Agency before refuse is deposited; and
3. Final contours and elevations shall be submitted to the Agency for approval before refuse is deposited; and
4. In all respects except as noted in this order, the City shall conform to the Rules and Regulations in the operation of the landfill; and
5. The City shall diligently seek an acceptable long-term solution to its solid-waste problem and shall file monthly progress reports with respect to its efforts to achieve such a solution; and
6. The City shall within 60 days after receipt of this order submit to the Agency and to the Board a report regarding methods of preventing leaching to the waters after dumping is terminated, at which time the Board will take such further action as may be appropriate.

I, Christian Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 6th day of January, 1972 by vote of 4-0.

Christian Moffett

