

IN THE IOWA DISTRICT COURT FOR SIOUX COUNTY

STATE OF IOWA, ex rel. IOWA)	
DEPARTMENT OF NATURAL)	
RESOURCES,)	NO. _____
)	
Plaintiff,)	
)	
vs.)	
)	PETITION AT LAW
NORTHWEST IOWA AREA SOLID)	
WASTE AGENCY,)	
)	
Defendant.)	

COMES NOW Plaintiff State of Iowa, ex rel. Iowa Department of Natural Resources (“DNR”) and for its claims against Defendant states as follows:

INTRODUCTION

1. The State of Iowa seeks the assessment of civil penalties and injunctive relief against Defendant Northwest Iowa Area Solid Waste Agency (NIASWA) arising from solid waste law violations involving the construction of solid waste landfill units without a permit, and the deposit of solid waste in landfill units that do not have an approved leachate collection system and liner at the municipal solid waste landfill operated by NIASWA and located at 4540 360th Street, Sheldon, Sioux County, Iowa.

PARTIES

2. The State of Iowa is a sovereign state of the United States of America and brings this action on behalf of the DNR, a duly constituted agency of the State of Iowa pursuant to Iowa Code section 455A.2.

3. NIASWA is a public body created by an intergovernmental agreement made pursuant to Iowa Code chapter 28E, and it operates a municipal solid waste landfill known as the Northwest Iowa Area Sanitary Landfill located at 4540 360th Street, Sheldon, Sioux County, Iowa.

DEFINITIONS

4. “Leachate” means a liquid that has percolated through or drained from a solid waste landfill. 567 Iowa Admin. Code 100.2.

5. “Municipal solid waste landfill (MSWLF) unit” means a discrete area of land or an excavation that receives household waste, and that is not a land application site, surface impoundment, injection well, or waste pile. An MSWLF unit also may receive other types of wastes, such as commercial solid waste, nonhazardous sludge, construction and demolition debris, and industrial solid waste. An MSWLF unit may be publicly or privately owned. An MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion. 567 Iowa Admin. Code 113.3.

6. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Iowa Code § 455B.301(23).

7. “Vertical expansion” means additional waste placement on top of or against the side slopes of a previously filled MSWLF unit, whether active, closed, or inactive. 567 Iowa Admin. Code 113.3

JURISDICTION

8. The Iowa Environmental Protection Commission (EPC) is required to establish rules for the proper administration of Iowa Code chapter 455B, Division IV, Part 1, relative to the treatment and disposition of solid waste. Iowa Code § 455B.304. Pursuant thereto, the Commission has adopted 567 Iowa Admin. Code chapters 100-123 concerning solid waste

management and disposal.

9. Pursuant to its authority, the EPC adopted 567 Iowa Admin. Code chapter 113 (“Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Nonhazardous Wastes”).

10. By October 1, 2007, existing MSWLF units that did not have an approved leachate collection system and a composite liner or a leachate collection system and an alternative liner modeled at an approved point of compliance were to cease accepting solid waste. 567 Iowa Admin. Code 113.2(8)“b”.

11. A MSWLF unit may not be constructed or operated without a permit from the DNR. 567 Iowa Admin. Code 113.4(1).

12. A MSWLF unit must be constructed and operated according to 567 Iowa Admin. Code chapter 113, any plans and specifications approved by the DNR, and the conditions of its permit. Any plans and specifications approved by the DNR shall constitute a condition of the permit. 567 Iowa Admin. Code 113.4(2).

13. A vertical expansion of an MSWLF unit shall not be allowed if the MSWLF unit does not have an approved leachate collection system and a composite liner or a leachate collection system and an alternative liner modeled at an approved point of compliance. 567 Iowa Admin. Code 113.7(7)“b”(1).

14. The Attorney General is authorized, on request of the DNR, to institute any legal proceedings necessary in obtaining compliance with an order of the director or prosecuting any person for a violation of Iowa Code chapter 455B, Division IV, Part 1, or the rules issued under that part. Iowa Code § 455B.307(2). Any person who violates any provision of Iowa Code chapter 455B, Division IV, Part 1, or any rule or any order adopted pursuant to that part is subject to a civil penalty not to exceed Five Thousand Dollars (\$5,000.00) for each day of the violation. Iowa Code §

455B.307(3).

FACTS

15. In 1974, pursuant to an intergovernmental agreement made pursuant to Iowa Code Chapter 28E, the Sioux, O'Brien and Osceola County Area Solid Waste Agency began operating a municipal solid waste landfill located at 4540 360th Street, Sheldon, Sioux County, Iowa.

16. NIASWA was created by an intergovernmental agreement made pursuant to Iowa Code Chapter 28E and filed with the Iowa Secretary of State on January 20, 1982. This agreement replaced the Chapter 28E agreement creating the Sioux, O'Brien and Osceola County Area Solid Waste Agency.

17. Since 1982, NIASWA has continuously operated the municipal solid waste landfill known as the Northwest Iowa Area Sanitary Landfill located at 4540 360th Street, Sheldon, Sioux County, Iowa.

18. The landfill is operated pursuant to DNR Sanitary Disposal Project Permit No. 84-SDP-01-74P.

19. From 1974 to 1986, NIASWA actively operated eight MSWLF units (cells 1-8).

20. From 1985 to 1992, NIASWA constructed six additional MSWLF units (cells 9-14).

21. After October 1, 2007, NIASWA was prohibited from accepting solid waste in cells 1-14 pursuant to DNR rules, because those cells did not have a leachate collection system and a composite or alternative liner approved by the DNR.

22. NIASWA constructed four MSWLF units (cells 15-18) prior to October 1, 2007, that contained approved leachate collection systems and alternate liners.

23. After October 1, 2007, NIASWA was authorized under DNR rules to only accept solid waste in cells 15-18.

24. On June 3, 2011, NIASWA's licensed design engineer, Elliot Waddell, submitted a

report to the DNR that contained comments on NIASWA's progress on the construction of new MSWLF units (cell numbers 19 and 20).

25. Prior to beginning construction on cells 19-20, NIASWA did not submit any plans or specifications for the new MSWLF units to the DNR for approval.

26. NIASWA began construction of cells 19 and 20 without a permit first being issued by the DNR.

27. On June 8, 2012, the DNR approved the placement of solid waste in the completed portions of cells 19 and 20.

28. On July 26, 2012, DNR personnel traveled to the NIASWA landfill to inspect cells 19 and 20. During the inspection, the DNR discovered that solid waste was being deposited in cells 1 through 14.

29. In a discussion with Elliot Waddell and the NIASWA landfill manager, Larry Oldenkamp, during the July 26 inspection, the DNR personnel were informed that NIASWA deposited solid waste in cells 1 through 14 for approximately six months prior to the June 8, 2012 approval of the use of cells 19 and 20 because the landfill ran out of room.

30. On July 31, 2012, Elliot Waddell provided the DNR with cross section drawings of the final approved cell grades and the actual grades for cells 2-7.

31. The DNR estimates the difference in the approved grades and the actual grades in the cross section drawings is equivalent to 600,000 cubic yards of solid waste illegally deposited in the landfill. Estimating one-half ton of solid waste per cubic yard, the DNR calculates NIASWA illegally deposited approximately 300,000 tons of solid waste in the landfill.

32. NIASWA landfill records ending June 30, 2011, record an annual fill rate of 62,064 tons of solid waste were deposited in the landfill in the previous year.

33. With an annual fill rate of approximately 60,000 tons per year, DNR calculations

estimate NIASWA illegally deposited solid waste in the landfill for approximately four to five years prior to June 8, 2012.

34. On August 23, 2012, the DNR issued a Notice of Violation Letter to NIASWA for accepting waste in cells 1 through 14 after October 1, 2007, and for vertical expansion of these cells.

VIOLATIONS

35. Since October 1, 2007, NIASWA has repeatedly deposited solid waste in MSWLF units (cells 1 through 14) that do not have an approved leachate collection system and a composite liner or alternative liner in violation of 567 Iowa Admin. Code 113.2(8)"b".

36. NIASWA began construction on MSWLF unit Cell 19 without a permit from the DNR in violation of 567 Iowa Admin. Code 113.4(1).

37. NIASWA began construction on MSWLF unit Cell 20 without a permit from the DNR in violation of 567 Iowa Admin. Code 113.4(1).

38. NIASWA violated the conditions Sanitary Disposal Project Permit No. 84-SDP-01-74P by depositing solid waste in unapproved MSWLF units (cells 1 through 14) in violation of 567 Iowa Admin. Code 113.4(2).

39. NIASWA violated the conditions Sanitary Disposal Project Permit No. 84-SDP-01-74P by exceeding the final approved grade for cells 1 through 14 in violation of 567 Iowa Admin. Code 113.4(2).

40. NIASWA's continued use of cells 1 through 14 after October 1, 2007, resulted in a vertical expansion of MSWLF units that do not have an approved leachate collection system and a composite liner or alternative liner in violation of 567 Iowa Admin. Code 113.7(7)"b"(1).

WHEREFORE, Plaintiff State of Iowa ex rel., Iowa Department of Natural Resources requests that the Court:

