

ILLINOIS POLLUTION CONTROL BOARD
January 18, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-198
)
 A & F MATERIALS COMPANY, INC.,)
 a Nevada Corporation, and ALVA)
 RUNYON, an individual,)
)
 Respondents.)

OPINION AND ORDER OF THE BOARD (by Mr. Young):

Respondents, A & F Materials Company, Inc., a Nevada Corporation, and Alva Runyon, were charged in an Amended Complaint filed September 20, 1978, with violations of the Environmental Protection Act and Chapter 3 of the Rules and Regulations in the operation of an unpermitted holding lagoon in Richland County, Illinois, and by causing or allowing the discharge of contaminants into the waters of the State. On Stipulation between parties and on Motion of the Complainant, Respondent Alva Runyon was dismissed without prejudice by Order of the Board on November 2, 1978.

Hearing was held at the Richland County Courthouse in Olney, Illinois, on October 26, 1978, at which time the parties entered a Joint Stipulation, Statement of Facts and Proposal for Settlement into the record.

The facts set forth in the Joint Stipulation establish that the Respondent A & F Materials Company, Inc. constructed a holding lagoon facility designed to store certain substances for ultimate refining and recovery operations and that as a result of heavy rainfalls on several different occasions the facilities overflowed into an unnamed tributary of the Fox River (Stip. 2). The Respondent held no construction or operation permit issued by the Agency under 12(b) of the Act and Rules 951 and 952 of Chapter 3 despite written notification (on July 30 and August 11, 1976, and March 6, 1978) that such permits were required and verbal notification of such requirements on several different occasions (Stip. 3).

The Respondent stipulates and admits the violation of 12(b) of the Act and Rules 951 and 952 of Chapter 3. No evidence was entered to support Counts I and IV of the Complaint and the parties agree that Count III should be dismissed (Stip. 4, 5).

Respondent agreed to empty the lagoon and remove all residuals by December 1, 1978; to completely fill, cover and level the holding lagoon facility no later than December 15, 1978; and, to pay a civil penalty of \$1,100.00 for the violations admitted (Stip. 4, 5).

On the basis of the foregoing and the Joint Stipulation, Statement of Facts and Proposal for Settlement entered into the record on October 26, 1978, the Board finds that the Respondent did violate Section 12(b) of the Environmental Protection Act and Rules 951 and 952 of Chapter 3: Water Pollution, of the Pollution Control Board Rules and Regulations. The Board further finds that \$1,100.00 is a sufficient penalty for the violation found herein and necessary to the enforcement of the Act and will assess that amount as penalty for the infraction. The Board has considered the application of the requirements of Section 33(c) of the Act to the facts and circumstances herein and finds the Joint Stipulation, Statement of Facts and Proposal for Settlement acceptable under Rule 331 of the Board's Procedural Rules. Counts I, III and IV of the Complaint will be dismissed.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. Respondent, A & F Materials Company, Inc., is found to have operated a holding lagoon facility in violation of Section 12(b) of the Environmental Protection Act and of Rules 951 and 952 of Chapter 3: Water Pollution, of the Pollution Control Board Rules and Regulations. The Board will assess a penalty of \$1,100.00 for such violations; penalty payment to be made by certified check or money order within 45 days of this Order payable to:

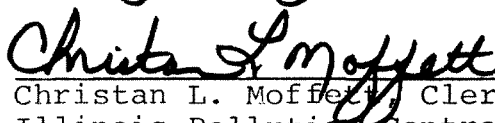
State of Illinois
Fiscal Services Division
Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

2. Respondent, A & F Materials Company, Inc., shall adhere to all provisions of the Joint Stipulation, Statement of Facts and Proposal for Settlement which is incorporated by reference as if fully set forth herein.

3. Counts I, III and IV of the Complaint are hereby dismissed.

IT IS SO ORDERED.

Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18th day of January, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board