

ILLINOIS POLLUTION CONTROL BOARD  
October 19, 1978

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 77-289  
 )  
EVERETT L. STALEY, )  
 )  
Respondent. )

MR. JOHN VAN VRANKEN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

CASSIDY, CASSIDY, MUELLER & PRICE, ATTORNEYS AT LAW (MR. RICHARD D. PRICE, JR., OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 7, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that Mr. Everett L. Staley operated a solid waste management site without an Agency Operating Permit from July 27, 1974 until November 7, 1977 in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Illinois Environmental Protection Act. A hearing was held on May 11, 1978. The parties filed a Stipulation and Proposal for Settlement on July 17, 1978.

The Respondent, Mr. Everett L. Staley, is the co-owner of an area of land located near 4705 West Middle Road in Peoria, Peoria County, Illinois. During the time period between July 27, 1974 and November 7, 1977, the property had been used for the deposit of construction and demolition waste.

The stipulated facts reveal that the Respondent has never been issued an operating permit from the Agency to conduct a refuse disposal operation on the land in question. (Stip., p. 2-3). The Respondent applied for such a permit on January 18, 1973 and March 12, 1974, but both applications were denied by the Agency. (Stip., p. 3). The Complainant has received no citizen complaints concerning this solid waste management site. (Stip., p. 3). At the time of the May hearing, "some cover material had been applied to the area in question." (Stip., p. 3).

The Stipulation and Proposal for Settlement provides that the Respondent shall: (1) cease and desist the violation alleged in the Complaint; (2) apply for an Operating Permit from the Agency; (3) not operate the refuse disposal area until an Operating Permit is granted by the Agency; (4) apply at least one foot of cover material to the area pending final action by the Agency on the permit application; (5) properly close and cover the area in accordance with all applicable Rules and Regulations if an Operating Permit is not issued by the Agency within 120 days of the date of the Board's Final Order; and (6) pay a stipulated penalty of \$250.00 .

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds the Respondent in violation of Rule 202 (b)(1) of Chapter 7: Solid Waste Rules and Regulations and Section 21(e) of the Illinois Environmental Protection Act from July 27, 1974 until November 7, 1977. The Board imposes the stipulated penalty of \$250.00 .

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

ORDER


It is the Order of the Illinois Pollution Control Board that:

1. The Respondent has violated Rule 202(b)(1) of Chapter 7: Solid Waste Rules and Regulations and Section 21(e) of the Illinois Environmental Protection Act from July 27, 1974 until November 7, 1977.
2. Within 35 days of the date of this Order, the Respondent shall pay the stipulated penalty of \$250.00 , payment to be made by certified check or money order to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed July 17, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 19<sup>th</sup> day of October, 1978 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board