

ILLINOIS POLLUTION CONTROL BOARD  
September 4, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
v. ) PCB 75-184  
JOHN PRIOR, )  
Respondent. )

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

This case comes before the Pollution Control Board (Board) on an enforcement Complaint filed by the Environmental Protection Agency (Agency) on May 1, 1975. The Complaint alleges that Respondent John Prior developed, and subsequently operated, a solid waste management site in Marion County, Illinois, without the required permits from the Agency. Violations of both the Environmental Protection Act (Act) and Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations are alleged during the period November 8, 1974, through the filing of the Complaint. Ill. Rev. Stat., Ch. 1111/2, §21(e)(1975); PCB Regs., Ch. 7, Rules 201, 202(a).

At a hearing held in Salem, Illinois, on June 25, 1975, the Agency and Mr. Prior submitted a Stipulation of Facts (Stipulation) containing the following:

1. Mr. Prior developed a solid waste management site of approximately 8 acres on or about November 8, 1974, and has operated it since.
2. Mr. Prior obtained no permits for the site until May 22, 1975.
3. Mr. Prior's application for a permit to develop and/or operate the site in question, submitted January 6, 1975, was denied by Agency letter dated March 17, 1975. (No reason for the denial is given.)
4. A subsequent application by Mr. Prior resulted in the Agency grant of a development permit on May 22, 1975. No operating permit has yet issued.

In addition to these facts, the Stipulation contains admissions of violation of the development and operating permit requirements by Mr. Prior.

The only other matters in the record is a statement by Mr. Prior at the June 25, 1975 hearing, in which Mr. Prior alleged that his failure to obtain the necessary permits was the result of his misplaced trust in an incompetent engineering consultant. Mr. Prior also stated that Agency reports on his operation had always stated, "in compliance - no permit" (R. 9). Neither of these allegations was cross-examined upon.

Taking into consideration the factors enumerated in Section 33(c) of the Act, we feel that a finding of violation is mandated here. The Board has many times stated its commitment to the permit system; the fact that a permit has been subsequently issued and the matters raised by Mr. Prior's statement, go to mitigation. They do not constitute an excuse for failing to timely obtain the necessary permits.

Such mitigation is, however, sufficient to result in the imposition of a low penalty. Subsequent permit issuance, and Mr. Prior's unchallenged statement, (attributed to the Agency), that the site is properly operated in all other respects, lead us to conclude that a penalty of \$100.00 will serve to protect the permit system.

The Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

#### ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD THAT:

1. Respondent John Prior is found to have developed and operated a solid waste management site in Marion County, Illinois, without the required development and operating permits from the Environmental Protection Agency, in violation of Section 21(e) of the Environmental Protection Act, and Rules 201 and 202(a) of Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations.

2. For the above described violations, Respondent shall pay a civil penalty of \$100.00, payment to be made by certified check or money order to:

Fiscal Services Division,  
Illinois Environmental Protection Agency,  
2200 Churchill Drive,  
Springfield, Illinois 62706

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4<sup>th</sup> day of Sept., 1975 by a vote of 4-0.

Christan L. Moffett