

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
 )  
v. ) PCB 74-453  
 )  
JAKE SEETS, SR., )  
Respondent. )

Mr. Anthony B. Cameron and Mr. Larry R. Eaton, Assistant Attorneys General, appeared on behalf of Complainant; Mr. Theodore E. Diaz, Armbruster and Diaz, appeared on behalf of Respondent.

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

This matter comes before the Pollution Control Board (Board) upon the December 4, 1974, complaint of the Environmental Protection Agency (Agency) charging Jake Seets, Sr., (Seets) with operating a solid waste management site without an Agency issued operating permit on or since July 27, 1974, thereby violating Section 21(e) of the Environmental Protection Act (Act) and Rule 202(b)(1) of the Solid Waste Regulations. Hearings were held on April 9, and August 4, 1975, in Jerseyville, Illinois.

Seets owns a solid waste management site five miles west of Brighton, Jersey County, Illinois. Seets admits that he did not have a permit issued by the Agency to operate a solid waste management site between July 27, 1974, and December 2, 1974 (Exs. 1 and 2). The unrefuted testimony of Mr. Richard A. Eisenkoff showed that between October 3 and October 29, 1974, the landfill had been in operation (R.25-31). Although Exhibit 3 shows a large quantity of garbage present on the site on August 5, 1974, there was insufficient evidence on the age of the refuse to determine whether it had been dumped before or after July 27, 1974.

In mitigation, Mr. Seets testified that he no longer uses the site and that he could not afford to get a permit (R.8, 20). No evidence was presented concerning the character and degree of injury to the public health. The record was also devoid of evidence pertaining to the social and economic value of the pollution source as well as its suitability to the area.

The Board finds that Mr. Jake Seets operated a solid waste management site on or after July 27, 1974, without an Agency issued permit, thereby violating Section 21(e) of the Act and Rule 202(b)(1) of the Solid Waste Regulations. In consideration thereof, the Board will assess a penalty of \$100.00 against Mr. Seets and order him to cease and desist from operating the site without an appropriate permit.

The Agency has moved that costs be assessed against Seets pursuant to Procedural Rule 314 for his failure to admit statements two and three in the Agency's Request for Admission of Facts. The Board herewith denies the Agency's motion to assess costs as the Agency failed to prove those portions of the Request for Admission of Facts which were denied.

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

ORDER

It is the Order of the Pollution Control Board that:

1) Respondent Jake Seets is found to have operated a solid waste management site in Jersey County without the required operating permit from the Agency, in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Rules and Regulations and Section 21(e) of the Act, during the period July 27, 1974, to December 2, 1974; and

2) Respondent Jake Seets shall pay as a penalty the sum of \$100.00, payment to be made within 35 days of the date of this Order, by certified check or money order to:

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

and

3) Respondent Jake Seets shall cease and desist operating the solid waste management site within 30 days of this Order, applying proper final cover to the site in accordance with applicable Board Regulations, unless the proper operating permit is applied for within 30 days and received within 120 days of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18<sup>th</sup> day of September 1975 by a vote of 3-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board