

ILLINOIS POLLUTION CONTROL BOARD
January 8, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-286
)
 CITY OF SHELBYVILLE,)
)
 Respondent.)

Ms. Marilyn B. Resch, Assistant Attorney General, Attorney
for Complainant
Mr. Franklin Dove, Dove & Dove, Attorney for Respondent

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

This case involves a Complaint, filed on July 25, 1975, alleging that Respondent, City of Shelbyville (Shelbyville), owned and operated a solid waste management site without an appropriate development permit and an appropriate operating permit from the Environmental Protection Agency (Agency), in violation of Rules 201 and 202(b)(1) of the Solid Waste Regulations (Chapter 7) and Section 21(e) of the Environmental Protection Act. More specifically, the Complaint alleges that Shelbyville operated its site located in Section 13 of Township 11 North, Range 3 East of the Third Principal Meridian in Shelby County, Illinois, from July 27, 1974 continuously through July 25, 1975 without the necessary permits.

A hearing was held at the Shelby County Courthouse, Shelbyville, Illinois, on September 16, 1975. A Stipulation of Facts and Proposed Settlement (Stipulation) was entered into evidence. No additional evidence was presented. The parties propose that Shelbyville pay a penalty of \$300.00 for the violations and take other actions necessary to obtain the necessary permits.

The parties stipulated that Shelbyville owns the site as described in the Complaint which has been operated by Shelbyville as a solid waste management site for approximately 23 years; primarily for the disposal of household wastes, although some industrial wastes are deposited at the site.

Shelbyville admitted that it had operated the site without the required permits from July 27, 1974 until July 25, 1975 in violation of Section 21(e) of the Environmental Protection Act and Rules 201 and 202(b)(1) of the Solid Waste Regulations (Chapter 7).

The record indicates that the Agency sent letters to Shelbyville on seven dates beginning on August 22, 1973 and July 27, 1974; two similar letters were sent on November 1, 1974 and January 28, 1975 prior to the filing of this Complaint. Additionally, Agency personnel brought the permit requirement to the attention of the Mayor (on February 2, 1974) and to Commissioner David W. Young, Shelbyville Commissioner of Public Property (on April 5, 1974, December 19, 1974 and July 18, 1975) either by telephone or in person.

The parties further stipulated that the present corporate authorities took office in May, 1973 and took a number of actions including the expenditure of approximately \$19,000.00 toward compliance including building of all-weather roadways and buildings, burial and covering of trees, and brush, and the engaging of consulting engineers in February, 1974 and the submission of a permit application on April 17, 1974.

The initial permit was denied on May 1, 1974; an amended permit application was submitted on July 24, 1974 and subsequently denied on September 16, 1974 primarily for lack of hydrogeological data. Shelbyville explored the possibility of a new joint solid waste management site with the County of Shelby without success and in May of 1975 engaged a new consulting engineer to prepare a second amended application for permit which Shelbyville will submit on or before November 4, 1975. Additionally, the Stipulation sets forth certain actions to be taken prior to September 22, 1975 by Shelbyville in contemplation of operation of the site.

On the basis of the above facts and the Stipulation, which constitutes the entire record in this case, we find that Shelbyville did violate the Act and Regulations from July 27, 1974 until July 25, 1975, by operating its solid waste management site without any permit from the Agency. We further find that the stipulated settlement of \$300.00 constitutes a reasonable penalty for these violations.

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

ORDER


1. Respondent, City of Shelbyville, is found to have operated its solid waste management site in violation of Section 21(e) of

the Environmental Protection Act and Rules 201 and 202(b)(1) of the Solid Waste Regulations and shall pay a penalty of \$300.00 for such violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

2. City of Shelbyville shall promptly proceed to take all reasonable and necessary actions and to make all reasonable and necessary submissions to obtain the lawfully required permits for its solid waste management site and shall discontinue operation of its solid waste management site unless the appropriate permit has been applied for by November 7, 1975 as provided for in paragraph 7 of the Stipulation of Facts and Proposed Settlement entered into by and between the City of Shelbyville and the Illinois Environmental Protection Agency.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of January, 1976 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board