

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
)
v.) PCB 74-386
)
)
CITY OF MARENGO,)
Respondent.)

MR. JEFFREY S. HERDEN, attorney for Complainant.
MR. RICHARD EICKSTEADT, attorney for Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On October 25, 1974, the Illinois Environmental Protection Agency (Agency) filed with the Illinois Pollution Control Board (Board) a Complaint against the City of Marengo. It charged that the City, from July 27, 1974, until October 25, 1974, failed to have an Agency operating permit for its solid waste management site in violation of Rule 202(b)(1) of the Solid Waste Regulations (Chapter 7) and of Section 21(b) of the Illinois Environmental Protection Act (Act). On November 19, 1975, the City filed an Answer denying the substantive allegations of the Complaint. An Amended Complaint, alleging the additional violation of Section 21(e) of the Act, was filed on March 28, 1975. The site is located in Section 25, Township 44 North, Range 5 East in McHenry County, Illinois.

A hearing was held on February 5, 1975, in the City Hall of Marengo, for the purpose of entering into a Stipulation of Facts and a Proposed Settlement. The Stipulation was filed with the Board on February 24, 1975.

The solid waste management site was used as a city dump until November 15, 1974, when it was permanently closed. The City admits it operated the site without a permit until it was closed. At the hearing the Mayor of Marengo explained that the City made a decision not to apply for a permit, since it involved a costly engineering survey and the site had a maximum life of no more than two years (R. 12-13).

The Stipulation and Proposed Settlement provide that the City shall pay a penalty of \$750 and complete final cover at the site within forty-five days of the Board's final order. We find that Respondent violated Section 21(e) of the Act and Rule 202(b)(1) of Chapter Seven from July 27, 1974, until October 25, 1974. We consider the proposed settlement reasonable for this violation.

With respect to the Complaint alleging a violation of Section 21(b) of the Act, we have recently held that a violation of Rule 202(b)(1) of Chapter 7 does not also constitute a violation of Section 21(b) of the Act, which prohibits open dumping. EPA v. E. and E. Hauling, PCB 74-473 (March 26, 1975); EPA v. City of St. Charles, PCB 74-388 (April 10, 1975).

This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

IT IS THE ORDER of the Illinois Pollution Control Board that:


1. Respondent violated Section 21(e) of the Act and Rule 202(b)(1) of Chapter 7 as set out in this Opinion. That portion of the Complaint alleging a violation of Section 21(b) of the Act is dismissed.

2. Respondent shall pay a penalty of \$750 for its violations of the Act and Regulations established in this Opinion. Payment shall be by certified check or money order payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 35 days of the adoption of this Order.

3. Respondent shall apply final cover at its solid waste management site within forty-five days of the date of this Order.

Mr. Dumelle concurs except with dismissal of the alleged violation of Section 21 (b) of the Act.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6th day of June, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board