

ILLINOIS POLLUTION CONTROL BOARD

March 26, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
v.) PCB 74-430
)
CITY OF ASTORIA,)
Respondent.)

Mr. Howard V. Thomas, attorney for Complainant.

Mr. Oral C. Kost, attorney for Respondent.

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

On November 19, 1974, the Illinois Environmental Protection Agency (Agency) filed a Complaint against the City of Astoria with the Illinois Pollution Control Board (Board). The Complaint alleged that Respondent operated a solid waste management site at all times from July 27, 1974, until November 19, 1974, without an Agency Operating Permit in violation of Section 21(e) of the Environmental Protection Act (Act) and Rule 202(b)(1) of the Solid Waste Regulations (Chapter Seven). Respondent's 20-acre solid waste-management site is located in the SW 1/4 of Section 32, Township 3 North, Range 1 East, in Fulton County, Illinois.

A hearing was held on January 23, 1975, in the Circuit Courtroom of the Fulton County Courthouse in Lewistown, Illinois. A Stipulation of Facts with attached exhibits was entered into evidence at the hearing. The Stipulation of Facts stated that:

"2. Respondent has operated the solid waste-management site designated in the Complaint before, on, and after July 27, 1974, without an operating permit granted by the Environmental Protection Agency.

"3. To date, Respondent has not submitted an application for a permit from the Environmental Protection Agency.

"4. The Environmental Protection Agency, beginning on January 7, 1974, sent the Respondent four letters which indicated that the site was subject to the requirement that a permit be obtained, and that no permit from the Environmental Protection Agency had been issued for the site in question. Carbon copies of the aforementioned letters are attached hereto as Exhibit A. Prior to 1974, surveillance personnel from the Environmental Protection Agency made inspection visits to the site, and supplied the Respondent with copies; copies of the latter inspection

reports are attached hereto as Exhibit B.

"5. While the Respondent does not possess an operating permit, it has requested and received the necessary application form from the Agency, and intends to retain an engineering firm to provide the technical services necessary to properly complete the application."

The Respondent called one witness in mitigation. The witness established that a total of \$7,716.63 was received by the municipality in 1974 from taxes levied (R.8). The population of the Village of Astoria is 1,200. The witness, the village clerk, admitted on cross examination that he was aware of the need for a permit before the June 1974 deadline (R.10).

We find that the Respondent violated the Act and Chapter Seven as charged in the Complaint. We assess a penalty, albeit nominal, to discourage other persons of limited means from unnecessarily violating the Act and Regulations.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent pay a penalty of \$50.00 for its violation of Section 21(e) of the Environmental Protection Act and Rule 202(b)(1) of the Solid Waste Regulations, as 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.

2. Respondent discontinue all refuse disposal activities at its site unless an Operating Permit is obtained from the Agency within 180 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 26th day of March, 1975, by a vote of 4 to 0.

Christan L. Moffett (gn)
Christan L. Moffett