

ILLINOIS POLLUTION CONTROL BOARD
April 24, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 74-434
)
CITY OF MARSHALL,)
)
Respondent.)

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

The Complaint in this matter was filed by the Attorney General for the Environmental Protection Agency (Agency) on November 20, 1974. The Complaint alleged in two counts that Respondent City of Marshall (Marshall), had operated two solid waste management sites, (hereinafter Site #1 and #2), without the operating permit from the Agency required under Rule 202(b)(1) of the Board's Solid Waste Rules and Regulations, in violation of that Rule and Section 21(e) of the Environmental Protection Act. Ill. Rev. Stat. Ch. 111½, Sec. 1021(e); Ill. P.C.B. Regs., Ch. 7: Solid Waste.

Rule 202(b)(1) became effective as against existing solid waste management sites on July 27, 1974. The Complaint alleged as specific dates for the operation of Site #1, August 9, 1974 and September 17, 1974; the violations were additionally alleged to have been of a continuing nature. Count 2 alleged as specific dates for the operation of Site #2 without the requisite permit, September 2, 1974 and September 17, 1974; continuing violation as to Site #2 were also alleged.

At a hearing held in the matter on January 17, 1975, the parties entered a Stipulation of Fact and Settlement Proposal. The City of Marshall in that Stipulation admitted to violations of Section 21(e) and Rule 202(b)(1) of the Solid Waste Rules and Regulations, in the manner specified in the Complaint. The Board thus has no difficulty in finding a violation here.

The parties also noted that although Site #1 continues to operate, Site #2 ceased operation in the early part of December, 1974. Further, Respondent Marshall has arranged for one Jesse A. Murphy to apply for a permit from the Agency to develop and operate a separate and distinct solid waste management site on land owned by Mr. Murphy.

As conceived by Respondent Marshall, the proposed site would be operated by Mr. Murphy and would serve as a site for the disposal of Respondents' wastes. Once this new site has commenced operation, Respondent Marshall plans to close down Site #1. After an initial rejection for lack of adequate information, the Agency is currently evaluating a permit application submitted with the required further information on December 27, 1974.

By way of settlement, Respondent Marshall has agreed that if it, by the time the Board has issued this Order, the proposed Murphy site has not received the necessary permits from the Agency, Marshall will discontinue all refuse disposal activities on Site #1 unless it shall have applied for an operating permit within 30 days of this Order, and obtained such a permit within 120 days of this Order. Alternatively, if Mr. Murphy has been granted an operating permit, Respondent shall discontinue all refuse disposal activities at its sites upon the issuance of such a permit. Respondent Marshall has also agreed, that if its two Sites are closed, it will apply a compacted layer of suitable cover material, two feet in depth, over the entire surface of both sites within 90 days of this Order.

The parties note in the Stipulation that the Agency may have been negligent in failing to reply to a letter from Respondent requesting the Agency's opinion as to the suitability of another, unspecified alternate site. That letter was sent by Respondent's consulting engineer on March 18, 1974. Reference to this letter is apparently intended by Respondent Marshall to constitute a mitigating circumstance; the Agency's failure to answer such a letter clearly does not excuse Respondent's failure to timely apply for the proper permit, particularly in light of repeated warnings from the Agency regarding the necessity of a permit, as evidenced by the Stipulation.

Respondent Marshall has also agreed to pay a penalty of \$1,000 for its admitted violations. In light of this penalty, the Board finds the Stipulation and Proposed Settlement in this matter acceptable. The Settlement is designed to, and will apparently accomplish, an elimination of Respondent's admitted violations. Respondent's agreement to properly close and cover the subject site will apparently serve to protect the environment from damage which might be caused by Respondent's prior violations in the operation of a site without a permit.

This Opinion constitutes the finding 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 City of Marshall is found to have operated two solid waste management sites in Clark County without the required operating permits from the Environmental Protection Agency, in violation of Section 21(e) of the Environmental Protection Act and Rule 202(b)(1) of Chapter 7: Solid Waste, of the Board's Rules and Regulations.

2. Respondent City of Marshall shall pay as a penalty for those violations the amount of \$1,000, payment to be made within 30 days of the date of this Order, by certified check or money order payable to:

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

3. Respondent City of Marshall shall comply with all terms and conditions contained in Paragraphs 1, 2 and 3 of the Stipulation of Fact and Settlement Proposal submitted by the parties to this matter.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Opinion & Order were adopted on the 24th day of April, 1975 by a vote of 4 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board