

ILLINOIS POLLUTION CONTROL BOARD

January 16, 1975

ENVIRONMENTAL PROTECTION AGENCY,)	
Complainant,)	
v.)	PCB 74-399
RALPH HAVENS and CARL HAVENS,)	
d/b/a HAVENS DISPOSAL,)	
Respondent.)	

OPINION AND ORDER of the Board (by Mr. Zeitlin)

This case concerns the operation of a solid waste management site by respondents in Fulton County, Illinois. The complaint, filed by the Environmental Protection Agency (Agency) on October 24, 1974, alleges that this site has been operated without an operating license since July 27, 1974, in violation of Section 21 (e) of the Environmental Protection Act (Act), and Rule 202 (b)(1) Chapter 7 of the Board's Solid Waste Rules and Regulations.

Chapter 7 became effective on July 27, 1973. Rule 202 (b)(1) under it requires that existing solid waste management sites obtain an Agency operating permit not later than one year after the effective date of the Regulation. Section 21 (e) of the Act states that "no person shall conduct any...refuse disposal operations...without a permit granted by the Agency..."

Pursuant to the Board's Procedural Rule 314 (a), the Agency served on Respondents a Request for Admissions (Complainant's exhibit 1). That request not being answered, the requested admissions of fact were admitted by the Respondents by operation of Procedural Rule 314 (c), Admission in the Absence of Denial. The facts contained in that Request for Admissions can be summarized as follows:

- 1) Respondents had no Agency operating permit between July 27, 1974 and October 24, 1974.
- 2) Respondents did, in fact, operate the site in question on August 12, 1974.
- 3) Respondents operated the site for two or more days a week between July 28, 1974 and October 9, 1974.

At a hearing in the matter on December 10, 1974, the parties jointly entered a Stipulation and Proposed Settlement. The Stipulation sets out basically the facts described above, and makes reference to the admissions. The Stipulation also contains statements to the effect that the Agency acknowledges certain undisclosed efforts to obtain a license by Respondents which, although insufficient, indicated good faith on the part of Respondents. The Agency also noted that Respondents had cooperated fully in the investigations in this matter. For these reasons, the proposal for settlement contains a provision for a penalty of only \$1,000.

The Stipulation and Proposal for Settlement also contains a provision under which Respondents must close the subject site unless a permit is applied for and received from the Agency.

The Board feels that the Stipulation and Proposal for Settlement in this case are acceptable.

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

IT IS THE ORDER of the Pollution Control Board that:

1. Respondents Carl Havens and Ralph Havens, d/b/a Havens Disposal are found to have violated Section 21 (e) of the Environmental Protection Act, and Chapter 7, Rule 202 (b)(1) of the Solid Waste Rules and Regulations.

2. Respondents Ralph Havens and Carl Havens, d/b/a Havens Disposal shall pay a penalty of \$1,000 for said violations. Payment is to be made within 35 days of the adoption of this Order by certified check or money order to the State of Illinois, Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

3. Respondents Carl Havens and Ralph Havens, d/b/a Havens Disposal, shall cease and desist refuse disposal activities at the subject site and properly close said site unless an appropriate operating permit has been applied for within 30 days of the adoption of this Order and obtained within 120 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion & Order were adopted on the 16th day of January, 1975 by a vote of 4 to 0.

