

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 73-49
)
 AURORA BLACKTOP COMPANY,)
)
 Respondent.)

Samuel Morgan, Special Assistant Attorney General and Michael A. Benedetto, Jr., Assistant Attorney General, on behalf of Complainant;
J. Robert Murphy on behalf of Respondent.

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

The Aurora Blacktop Company ("Respondent") is charged with numerous violations of the Illinois Environmental Protection Act ("Act") and the Rules and Regulations for Refuse Disposal Sites and Facilities ("Rules") in the operation of a refuse disposal site located in the City of Aurora and the County of Kane.

The only evidence submitted to the Board is a Stipulation which reads as follows:

"It is stipulated and agreed by and between the parties hereto, through their respective counsel, to-wit: J. Robert Murphy on behalf of Aurora Blacktop, Inc., respondent herein, and Samuel Morgan and Michael A. Benedetto on behalf of the complainant herein, that without concessions or admissions by either party as to the truth or falsity of the allegations contained in the complaint the respondent shall cease and desist henceforward from open dumping of refuse, the deposition of refuse in standing water, and any other conduct in violation of the Environmental Protection Act of the State of Illinois, it being understood that respondent does not by this stipulation in any way admit that any such violations have occurred."

The stipulation was filed before the Hearing Officer and received on March 26, 1973. There was no testimony offered by either the Petitioner or the Respondent. We must conclude that the charges in the complaint were not supported by sufficient evidence.

Accordingly, all charges are dismissed. However, we hold the Respondent strictly to his Stipulation.

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

IT IS THE ORDER of the Pollution Control Board that:

The Respondent shall cease and desist instanter from open dumping of refuse, the deposition of refuse in standing water, and any other conduct in violation of the Environmental Protection Act of the State of Illinois as well as all of the Rules and Regulations for "Refuse Disposal Sites and Facilities".

We further order the Agency to make an immediate investigation of the premises herein referred to.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above opinion and order was adopted by the Board on the 10th day of May, 1973, by a vote of 4 to 0.

Christan L. Moffett