

ILLINOIS POLLUTION CONTROL BOARD
May 20, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-474
)
 ARCH DEVELOPMENT, INC.,)
)
 Respondent.)

Mr. Steven Watts, Assistant Attorney General, Attorney for
Complainant
Mr. Preston K. Johnson, Sr., Johnson & Johnson, Attorney for
Respondent

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

This case arises out of an Amended Complaint (Complaint) filed by the Environmental Protection Agency (Agency) on January 8, 1976, alleging that Respondent, Arch Development, Inc., has developed and operated from June 12, 1975 until December 15, 1975, a solid waste management site without the required permits in violation of Rules 201 and 202(a) of the Illinois Pollution Control Board Rules and Regulations, Chapter 7: Solid Waste (Regulations), and in further violation of Section 21(b) of the Environmental Protection Act (Act). The original Complaint was filed on December 15, 1975. Hearing was held in O'Fallon on February 19, 1976 at which time a Stipulation of Parties and Proposed Settlement was filed with the Board.

The subject of the Complaint is a tract of land located in Centerville Township, Cahokia, St. Clair County, Illinois. Since June 12, 1975, Respondent admits that it has developed and operated this site without possessing either a development or operating permit issued by the Agency. Respondent agrees to pay \$850.00 as penalty for the violations found to exist by the Board. Respondent agrees to discontinue all refuse disposal activities at the site beginning February 19, 1976 until such time as a proper permit for the development and/or operation of the site has been issued by the Agency and Respondent further agrees to properly close the subject site within 120 days of the date of this Order unless the requisite permit is issued by the Agency.

On the basis of the above facts and the Stipulation, which constitutes the entire record in this case, we find that Respondent did violate Rules 201 and 202(a) of the Solid Waste Rules and Regulations in the development and operation of its refuse disposal site. The Stipulation of Parties and Proposed Settlement submitted by the parties is found adequate under Rule 333 of our Procedural Rules (EPA v. City of Marion, 1 PCB 591).

That portion of the Complaint alleging violation of Section 21(b) must be dismissed. As was held in E & E Hauling, 16 PCB 215 (1975), a Section 21(b) open dumping charge is not properly based on a permit violation.

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

ORDER

1. Respondent, Arch Development, Inc., is found to have developed and operated its refuse disposal site without the requisite permits in violation of Rules 201 and 202(a) of the Board's Solid Waste Rules and Regulations and shall pay a penalty of \$850.00 for such violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

2. Respondent shall discontinue all refuse disposal activities at the site beginning February 19, 1976 until such time as a proper permit for the development and/or operation of the site is issued by the Agency.

3. Respondent shall properly close its refuse disposal site unless the requisite permit is issued by the Agency within 120 days of the date of this Order.

4. Those portions of the Complaint alleging violation of Section 21(b) of the Act are dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of May, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board