

continued deveopment activity is alleged to be illegal because the Respondents are neither owners nor operators of the site, and because Edison, the owner, had no authority to allow the transfer.

There are several questions of fact presented by this complaint. There is no factual allegation that Respondents were not in fact operators on May 9, 1979 other than that inferable from the fact that the ICC had not yet approved Edison's contract of sale to Respondents. However, on October 19, 1978 the Agency allegedly notified Respondents that the transfers granted that August would be effective upon the date the sale to Respondents took effect.

Because whether or not the contract of sale was consummated prior to Respondents ability to assume status as operators is not wholly a question of law, the motion to dismiss Count I is denied as to all named respondents.

COUNT II

This count alleges that because Respondents had known, since August 14, 1979, that the Agency never had adopted permit transfer procedures pursuant to Solid Waste Rules 211 and 213, that they had no standing to receive and accept the transfers. This count is dismissed inasmuch as knowledge of transfer procedures is not an element of legal standing to apply for or receive such transfers.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 13th day of May, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board