

ILLINOIS POLLUTION CONTROL BOARD
September 21, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-4
)
 RUEBEN MURRELL,)
)
 Respondent.)

MR. REED NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF
THE COMPLAINANT;
MR. JOHN F. BICK, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter is before the Board upon a Complaint filed by the Agency on January 4, 1978 alleging that Respondent Murrell has operated a solid waste management site since July 27, 1974 without an operating permit, in violation of Section 21(e) of the Act and Rule 202(b)(1) of the Board's Solid Waste Regulations (Chapter 7). The Complaint also alleges that Respondent accepted hazardous and liquid wastes, including petroleum oils, without a permit in violation of Rule 310(b) of Chapter 7. A hearing in this matter was held on June 20, 1978. No members of the public were present.

The parties stipulated to the following set of facts. Respondent Murrell and his wife have owned and operated a solid waste management site in Macon County since at least June 1, 1974. (R.4). Respondent has never had a permit for the operation of the site or for the acceptance and/or disposal of any liquid waste on the 40 by 40 yard site (R.5). There have been approximately 20 barrels containing petroleum oils or petroleum by-products on the site, and these barrels were at one time the property of F. W. Means Company of Decatur. Most, if not all, of the barrels have been removed, but not until sometime around March 14, 1978 (R.8-9).

Mrs. Murrell testified that her husband has a contract to haul garbage for F. W. Means (R.16). At the time that she and her husband acquired the property, there were refuse and solid wastes on the site (R.12). Mrs. Murrell also testified that she and her husband have attempted to remove the barrels and to follow and complete proper cover procedures. Mrs. Murrell indicated her willingness to comply with any Board order pertaining to the site (R.14).

The only point in controversy is whether the Murrells promptly responded to the Agency's notices of violations. Mr. Terry Ayres, an inspector for the Agency, testified that he inspected the site in August of 1977 and notified the Murrells, by letter

dated August 11, 1977, of various conditions on the site which constituted violations of the Act and Chapter 7 of the Board's Regulations, including the lack of an operating permit and the presence of the barrels (R.27-28, Exhibit 2). Mr. Ayres sent two subsequent letters, but the Murrells never replied to any of the three letters. The Murrells took no action to remove the barrels until Mr. Ayres personally spoke to Mr. Murrell at the site on March 14, 1978 (R.29).

Mrs. Murrell, however, testified that she personally tried to contact Mr. Ayres by phone sometime between August 11th and 15th. She called a total of three times and was unable to reach him. She did not attempt to contact him by letter (R.37-39).

The Board finds that a penalty is in order here. While Mrs. Murrell was unable to reach Mr. Ayres by phone, she did admit to having notice of the violations (R.36), and under the circumstances, she should have answered the August 11th letter by mail. Two subsequent letters failed to produce any response or action on the part of the Murrells, and the reasons for this inaction are unexplained. However, the Murrells have indicated their willingness to comply with the Board's order, and they did take prompt action following the conversation of March, 1978. For these reasons, the Board finds that a \$200 penalty is warranted and will aid in the enforcement of the Act as a deterrent to future violations.

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

ORDER

It is the Order of the Pollution Control Board that:

1. Respondent has violated Section 21(e) of the Environmental Protection Act and the Board's Rules 202(b)(1) and 310(b) of Chapter 7: Solid Waste Regulations.
2. Respondent shall cease and desist all such violations, and shall close the waste management site until compliance with the Act and Board Regulations is achieved. Respondent shall cover the site, as required by Board Rule 305C, with a minimum of two feet of suitable cover material over all of the fill portion of the landfill site.
3. Respondent shall remove all barrels containing liquid wastes, if any such barrels remain presently on the site.

4. Respondent shall not operate said landfill or accept any refuse or discarded materials until the proper operating and other permits for the site have been obtained.
5. Respondent shall pay a penalty of \$200 within 45 days of the date of this Order. Said penalty payment shall be made by certified check or money order payable to:

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 21st day of September 1978 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board