

ILLINOIS POLLUTION CONTROL BOARD
October 9, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
) Complainant,)
)
) v.) PCB 75-202
)
JET FUEL, INC.,)
)
) Respondent.)

MR. FRED BENSON, Assistant Attorney General, appeared on behalf of Complainant;
MR. ARCHIE BOB HENDERSON, appeared on behalf of Respondent.

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

The Illinois Environmental Protection Agency (Agency) filed a complaint against Jet Fuel, Inc., (Respondent) on June 5, 1975. The Agency alleged that Respondent operated a mine waste facility from prior to December 10, 1974 until to the date of the Complaint, without an operating permit issued by the Agency in violation of Section 12(b) of the Illinois Environmental Protection Act (Act) and Rule 201 of Chapter 4: on Mine Related Pollution Regulations. A hearing was held on August 16, 1975.

A request for Admission of Facts was filed by the Agency on June 5, 1975. This request was unanswered by Respondent. Therefore the facts of the request are deemed admitted, under Board's Procedural Rule 314.

Respondent owns and operates a mining facility designed to recover coal from mine refuse located in a mine refuse area situated in Franklin County, Illinois.

The Request for Admission, which Respondent is deemed to have admitted affirmatively, included the facts that Respondent at no time possessed a permit, and that Respondent was notified 7 times between March 12, 1974, and December 22, 1974, of the need for a permit and the implicit violation of the Act.

A Stipulation of Facts and Proposal for Settlement were entered into by the parties and submitted at the hearing. Respondent stated in the Stipulation of Facts, that it first applied for a permit on March 17, 1975. The petition was found inadequate and the permit was denied. On June 3, 1975, Respondent resubmitted its application. This application was approved by the Agency on June 23, 1975 and an operating permit was granted.

The parties proposed settlement consists of Respondent's agreement to pay a penalty of \$2000 for its violations of the Act. The record clearly shows that the Respondent at no time during its operation possessed an operating permit from the Agency and so was in violation of Section 12(b) of the Act and Rule 201 of the Mine Rules from December 10, 1974 until after the complaint was filed.

The Board is required, in reaching a decision, to consider the criteria of Section 33(c) of the Act. The Board finds that the stipulated settlement penalty based upon the admitted and stipulated facts is justified in the light of the Section 33(c) criteria, i.e. degree of injury, social and economic value of the facility, site suitability, and technical practicability -- economic reasonableness of abatement.

The Board finds that Respondent, Jet Fuel, Inc. violated both Section 12(b) of the Environmental Protection Act, and Rule 201 of the Mine Rules by operating its facility without an Agency operating permit.

The Settlement Agreement cited Respondent's limited financial capability as a small firm, and requested an extended penalty payment period. Respondent has corrected its violation prior to the hearing by obtaining a permit. The payment of a penalty is the only action which remains to be performed by Respondent under the Settlement Agreement. Therefore, Respondent will be granted an extended period of 180 days within which to make payments.

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

ORDER

It is the Order of the Pollution Control Board that:

1. Respondent, Jet Fuel, Inc. violated Section 12(b) of the Environmental Protection Act, and Rule 201 of Regulations on Mine Related Pollution as set forth in the above Opinion.

2. Respondent shall cease and desist the aforesaid violations.

3. Respondent, Jet Fuel, Inc. shall pay a penalty of \$2,000, as stipulated, for the determined violations. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be tendered within 180 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 9th day of October, 1975 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board