

ILLINOIS POLLUTION CONTROL BOARD  
August 7, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
 )  
v. ) PCB 74-94  
 )  
GLENN COOPER, )  
Respondent. )

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

This matter comes before the Pollution Control Board upon the Environmental Protection Agency's (Agency) March 14, 1974, complaint against Glenn Cooper for violations of Sections 21(a), 21(b), and 9(c) of the Environmental Protection Act (Act), Rules 4.03(a), 5.03, 5.04, 5.06, 5.07(a), 5.07(b), 5.09, 5.10(a), and 5.10(d) of the Rules and Regulations for Refuse Disposal Sites and Facilities, and Rules 304, 305(a), 305(c), 306, 308 and 314 of the Board's Solid Waste Regulations. These violations allegedly occurred from April 26, 1971, to the date of filing of the complaint.

On June 27, 1974, the parties hereto filed a stipulation and proposal for settlement which admitted, for purposes of the settlement only, the alleged violations. The parties stipulated to the imposition of a penalty of \$1,000.

On August 8, 1974, the Board rejected said stipulation stating:

We cannot accept this settlement. For scores of alleged violations, any one of which could subject an offender to a maximum penalty of \$10,000.00, we are asked to assess a penalty of \$1,000.00, upon no more foundation than blind faith that the parties have reached an appropriate figure. To do so would be an abdication of our responsibilities under the Act. No mitigation has been shown; in fact, with our rejection of the Stipulation, the Record in this matter consists solely of the Complaint.

On October 8, 1974, the parties submitted a second stipulation requesting that a penalty of \$1,000.00 be imposed. The parties state that "Mr. Cooper's ability to pay

is scant." The stipulation states that the landfill operated at a loss for the years 1972 and 1973. The Board submits that polluting at a "net loss" is no excuse for polluting. The final proposition in mitigation, which did not appear in the original stipulation, relates to the Board's imposition of fines in past landfill enforcement cases. We do not find the argument of "average penalties" persuasive. Penalties are assessed as a result of several factors including those found in Section 33(c) of the Act. The average or median penalty assessed in the past is not one of those factors, nor is the Board bound by the amount of penalties it has assessed in the past, as each case must stand upon its own facts.

ORDER

It is the Order of the Board that this matter be set for hearing within 21 days and held within 60 days 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 7<sup>th</sup> day of August, 1975 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board