

ILLINOIS POLLUTION CONTROL BOARD
March 13, 1975

ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant)
)
 v.) PCB 74-436
)
KNOX WRECKING & MOVING COMPANY,)
INC.)
 Respondent)

Mrs. Marilyn Resch, Assistant Attorney General, for the Complainant.

Mr. Robert N. Egan, Attorney, for the Respondent.

OPINION & ORDER of the Board (by Mr. Zeitlin)

The Complaint in this matter was filed by the Attorney General for the Environmental Protection Agency (Agency) on November 20, 1974. The Complaint alleged violations of Section 21(e) of the Environmental Protection Act, and Rule 202 (b)(1) of the Board's Solid Waste Rules and Regulations, in that Respondent operated a solid waste management site in Knox County without the required operating permit from the Agency. The violations were alleged to have occurred at all times between July 27, 1974, at which time the permit requirements became effective, and November 20, 1974, the date on which the complaint was filed. The complaint also alleged as specific dates of violation: August 8, 1974, October 1, 1974, and October 9, 1974.

In response to the Agency's request for admission, dated December 18, 1974, Respondent admitted that it did not possess an Agency permit for the operation of a solid waste management site, that it did operate or cause to be operated a solid waste management site, and that such site was operated for two or more days each week between July 28, 1974 and November 15, 1974.

At a hearing held on January 20, 1975, the parties entered a Stipulation of Fact and Settlement Proposal, detailing a history of dealings between the parties as regards an operating permit for the Knox County site in question. The Agency originally sent to Respondent the material necessary for permit application on March 5, 1973. The Agency also informed Respondent on five subsequent dates up to May 15, 1974 that such a permit would be needed for the site. Upon again receiving the materials necessary for a permit application in 1974, Respondent failed to promptly read or act on such material. Respondent finally realized sometime in April, 1974 that it did not have sufficient information to properly complete the permit application, and decided in conjunction with it's attorney to file an incomplete application for permit, which was done on April 26, 1974. That application was rejected by a letter from the Agency on May 9, 1974. A subsequent application was made by Respondent on November 12, 1974.

Respondent has stipulated to the alleged violations of Section 21(e) of the Act and Rule 202(b)(1) of the Board's Solid Waste Rules and Regulation. Respondent further admits a lack of diligence in the permit application process. In mitigation, however, the Agency has agreed in the stipulation that once Respondent had retained an engineer, Respondent proceeded expeditiously toward submitting a complete application for permit. The parties have agreed that a penalty of \$500 would be appropriate in this matter, in light of Respondent's initial lack of diligence, and its subsequent attempts to secure expeditious compliance. In light of the fact that the Agency finds the penalty herein acceptable, the Board will accept the stipulation submitted in this matter.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent Knox County Wrecking and Moving Company, Inc., is found to have operated a solid waste management site in Knox County, in violation of Section 21(e) of the Environmental Protection Act and Rule 202(b)(1) of the Board's Solid Waste Rules and Regulations.

2. Respondent Knox Wrecking and Moving Company, Inc., shall pay as a penalty the sum of \$500. Payment shall be made within 30 days from the date of this Order by certified check or money order, payable to:

Fiscal Services Division
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 & Order were adopted on the 13th day of March, 1975 by a vote of 4 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board