

ILLINOIS POLLUTION CONTROL BOARD  
May 22, 1975

ENVIRONMENTAL PROTECTION AGENCY,                    )  
  Complainant,    )  
  )    )  
  v.    )                   PCB 74-397  
  )    )  
VILLAGE OF OMAHA,    )  
  Respondent.    )

Mr. Anthony B. Cameron, Assistant Attorney General, appeared for the Complainant;

Mr. Joseph R. Hale, Bartley and Hale, appeared for the Respondent.

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

This enforcement action was filed on October 29, 1974. The Village of Omaha is charged with operating a solid waste management site without an operating permit from the Environmental Protection Agency (Agency) in violation of Rule 202(b)(1), Pollution Control Board Regulations, Chapter 7 (Solid Waste) and Section 21(e) of the Environmental Protection Act. A hearing was held in this matter on March 11, 1975.

The Village of Omaha, located in Gallatin County, owns and operates a solid waste management site that services a total population of approximately 300 people. It is stipulated by both parties that; 1) the refuse accepted in the Omaha solid waste management site between July 27, 1974 and October 14, 1974 was predominately refuse not generated by Respondent's own activities; 2) in the first two years prior to July 27, 1974, Respondent received from the Agency more than five written warnings to the effect that it did not possess a proper permit and would be required to have one as of July 27, 1974 (R6). In response to a request for admissions by the Complainant, Respondent admitted that it did not at any time between the dates of July 27, 1974 and October 24, 1974 possess a permit issued by the Environmental Protection Agency for the operation of a solid waste management site notwithstanding that it had operated such a site two or more days of each week between July 28, 1974 and October 19, 1974.

The facts as stipulated and the admissions by the Village of Omaha are sufficient to establish violations as alleged in the Complaint. In addition, the fact that the Respondent received more than five warnings from the Agency

to the effect that it needed a permit prior to July 27, 1974, indicates some laxity on the part of the Village of Omaha. In mitigation of the aforementioned violations the record shows that the Village had been informed by inspectors, apparently from the Agency, that the waste management site was in compliance with regulations prior to the time that the Agency informed the Village that they were in violation. The record also indicates that there is a need for the site supported by evidence of dumping in ditches prior to establishment of the site and subsequent to its closing.

In addition the Village has not operated the site since notification of violation. The record is unclear as to whether the Village of Omaha intends to apply for a permit in order to enable them to reopen their waste management site.

We find the Village of Omaha in violation as alleged in the Complaint and in view of the mitigating circumstances surrounding violation, assess a penalty of \$50.00.

This Opinion constitutes the finding of fact and conclusions of law of the Pollution Control Board.

ORDER

1. The Village of Omaha shall not re-open its solid waste management site without an appropriate permit. In the event it intends to re-open this site, it is ordered to apply for such permit within 30 days and to obtain such permit within 120 days of the date of this Order.

2. In the event the site remains closed, it shall be provided with final cover as set out in the Solid Waste Regulations.

3. The Village of Omaha is ordered to pay a penalty of \$50.00 for the violations of Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Environmental Protection Act found herein. Penalty payment by certified check or money order payable to the State of Illinois shall be made to:

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Opinion and Order were adopted on the 22<sup>nd</sup> day of May, 1975 by a vote of 5-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board