

ILLINOIS POLLUTION CONTROL BOARD  
October 16, 1975

PEOPLE OF THE STATE OF ILLINOIS,            )  
    Complainant,                                )  
  )  
    v.    )     PCB 75-55  
  )  
WASTE MANAGEMENT, INC.,                    )  
    Respondent.                                )

Mr. Jeffrey S. Herden, Assistant Attorney General, appeared on behalf of Complainant.  
Mr. Kenneth J. Gumbiner, Pedersen and Houpt, appeared on behalf of Respondent.

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

This matter comes before the Pollution Control Board (Board) upon the April 1, 1975, Second Amended Complaint of the People of the State of Illinois (People) against Waste Management, Inc. (Waste), a Delaware corporation. The Complaint charges Waste with operating a solid waste management site without an operating permit in violation of Rule 202(b)(1) of the Solid Waste Regulations and thus in violation of Sections 21(b) and (e) of the Environmental Protection Act (Act). The Amended Complaint also charges Waste with failing to provide proper daily, intermediate, and final cover, thereby violating Rule 305 of the Solid Waste Regulations and Section 21(b) of the Act. A hearing was held on July 1, 1975 and a Stipulation and Proposed Settlement was filed with the Board on July 2.

Waste owned and operated a solid waste management site in the town of Antioch, Illinois, since July 27, 1973. It is stipulated that Waste operated this site without any permit until March 12, 1975, at which time it obtained a development permit.

The parties stipulate that on eight inspections, the Agency observed what they considered to be violations of Rule 305(a) relating to daily cover. However, as these inspections were not made at the end of Waste's operating day, the Board finds that the Agency has failed to meet its burden of proof as to the 305(a) violation.

The parties also stipulate that Agency personnel observed violations of intermediate and final cover requirements on nine and two inspections respectively.

The Board finds that Waste operated its solid waste management site without a permit from July 27, 1973, until March 12, 1975, thus violating Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Act. A violation of 202(b)(1) does not constitute a violation of 21(b) of the Act and that portion of the Complaint is dismissed. See EPA v. E & E Hauling, Inc., PCB 74-473 (1975).

The Board also finds that Waste has violated Rules 305(b) and (c) and Section 21(b) of the Act in failing to provide proper intermediate and final covering.

The parties have stipulated to a civil penalty of \$5,000.00 which the Board accepts as adequate for the violations shown. The parties also agreed that Waste would comply with the daily, intermediate and final cover as required by the Solid Waste Regulations. In addition, the parties agreed that Waste would comply with the terms and conditions of its development permit and that Waste would post a \$25,000 corporate performance bond to insure permit compliance. As Waste has already received its operating permit, the Board finds these last two points of agreement to be moot.

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

#### ORDER

It is the Order of the Pollution Control Board that:

1) Respondent Waste Management, Inc. is found to have violated Rules 202(b)(1), 305(b) and 305(c) of the Solid Waste Regulations and Sections 21(b) and (e) of the Act.


2) For said violations, the stipulated penalty of \$5,000.00 is assessed and Respondent shall pay said penalty within 35 days of the date of this order, by certified check or money order to:

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

3) Respondent Waste Management, Inc., shall cease and desist all refuse disposal activities unless it applies proper daily, intermediate and final cover to the site.

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16<sup>th</sup> day of October, 1975 by a vote of 3-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board