

ILLINOIS POLLUTION CONTROL BOARD  
April 22, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 75-483  
 )  
 MRS. HILLARD WHITE, )  
 )  
 Respondent. )

Mr. John Van Vranken, Assistant Attorney General, appeared on behalf of the complainant.  
Mr. Randall S. Quindry appeared on behalf of the respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed on December 19, 1975 by the Environmental Protection Agency (Agency). The complaint alleges that Mrs. White owns and operates a solid waste management site in the North East Quarter of Section 11, Township 2 South, Range 7 East of the Third Principal Meridian in Wayne County, Illinois, in violation of Rule 202(b)(1) of the Board's Solid Waste Regulations and in violation of 21(e) of the Act.

The Board notes that Mrs. White was found in violation of Sections 21(a) and 21(b) of the Act in PCB 71-257, 3 PCB 235 (1971).

A hearing was held February 5, 1976 at Fairfield, Illinois. A Stipulation and Proposed Settlement was presented at that time. Mrs. White gave testimony concerning her inability to pay a large penalty. No one else testified.

The Stipulated Facts and Proposal for Settlement is as follows. The Agency in its complaint alleged that Respondent owned and operated a solid waste management site without an operating permit on and at all times after July 27, 1974 up to and including the day of filing the complaint, December 19, 1975. In a Request for Admission of Facts, Complainant requested the following admissions:

- (a) at no time did Respondent have the required operating permit;

- (b) that Respondent did operate or cause to be operated the subject site on February 7, 1975, March 12, 1975, July 7, 1975 and August 6, 1975; and
- (c) that Respondent has operated or caused to be operated the subject site with operating hours on more than one day each week between the dates of July 27, 1974 and December 19, 1975.

Mrs. White did not respond to the request within twenty (20) days and under Procedural Rule 314(c) the above listed facts are admitted. This leaves no other facts at issue.

Respondent, Mrs. White, admits violations of Rule 202(b)(1) and Section 21(e) of the Act and agrees to pay a penalty of \$250 within 90 days of an Order by the Board. Mrs. White further agrees to properly close the site in the event a permit is not applied for within thirty (30) days of this Order and received within 120 days of this Order.

The Agency is aware of Mrs. White's very limited financial situation (Stip. at 3). Mrs. White testified at the hearing concerning her income. Mrs. White, who is divorced, rents five small cottages, being approximately twelve by fourteen feet. They were built in 1937. She receives between \$280 and \$300 a month from the cottages (R.7). She pays utilities which ran \$260 in January (R.7) and never less than \$100 per month (R.8). Respondent sells junk from the site. Payments for hauling the waste amounted to about \$200 after expenses (R.8). Mrs. White testified she could pay the penalty within a ninety-day period. The site in question is a mile and two-tenths from the City of Fairfield (R.5).

The Board finds the Stipulation and Proposed Settlement to be acceptable under Procedural Rule 333.

The Board also finds Mrs. White in violation of Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Act. Although Respondent's financial condition mitigates against a heavy penalty, however, Respondent has run the site in question for twelve years (R.5). A penalty of \$250 is assessed and will be paid within ninety (90) days of this Order.

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

ORDER

1. Mrs. Hillard White is found to have violated Rule 202(b)(1) of the Solid Waste Regulations and Section 21(e) of the Act.

2. Mrs. White will discontinue all refuse disposal activities at the subject site and will properly close said site unless an appropriate operating permit has been applied for within thirty (30) days and obtained within one hundred twenty (120) days of this Order.

3. Mrs. White will pay a penalty of \$250 for the violations. Payment shall be by certified check or money order made out to the State of Illinois and sent to:

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

Payment will be made within ninety (90) days of the date of this Order.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22<sup>nd</sup> day of April, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board