

ILLINOIS POLLUTION CONTROL BOARD
June 18, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-452
)
VILLAGE OF MONTROSE,)
)
 Respondent.)

Mr. George W. Tinkham, Assistant Attorney General, Attorney
for Complainant
Mr. Harlan Heller, Attorney for Respondent

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

This matter comes before the Board on the Complaint filed by the Environmental Protection Agency on December 1, 1975 charging that the Village of Montrose operated a solid waste management site from July 27, 1974 to the date of the filing of the Complaint without an operating permit in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Rules and Regulations and in further violation of Section 21(e) of the Environmental Protection Act. Hearing was held in Montrose on March 31, 1976.

As a result of the pleadings in this matter the facts are not in dispute since the Village has admitted operating a solid waste management site for the benefit of its 350 citizens without a permit. The record indicates that the Village immediately closed the site upon being served with the Complaint in this matter.

The Board finds that the Village operated its solid waste management site without the requisite operating permit in violation of the Regulations and the Act and will assess a penalty of \$100.00 for these violations. The Board will also require the Village to discontinue refuse operations and to properly close the site.

It was undisputed that the site was operated in general compliance with the Regulations, except for the permit requirement. While the Village alleges that the permit violation is a mere technical violation, the Board does not agree. In order to obtain a permit, an operator must submit relevant geological and hydrological information to the Agency. Only with this information can the Agency determine whether the site is properly located so that environmental damage will be avoided. This analysis is fundamental

to the permit process and if an operator runs a landfill without having this analysis performed, he exposes the environment to uncertain hazards. This the Board will not allow. The Village also alleges that it cannot afford to expend the \$4000-5000 required for the engineering services necessary to complete the permit application. If the Village wishes to provide its citizens with a proprietary service, it must be willing to bear the costs of doing business. One of the necessary expenses of the landfill business is the cost of the engineering report to ensure that the site is properly located environmentally, and if the Village wishes to provide in this proprietary service, it must be willing to bear this associated cost.

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

ORDER

1. Respondent, Village of Montrose, is found to have operated its refuse disposal site without the required permit in violation of Rule 202(b)(1) of the Board's Solid Waste Rules and Regulations and in further violation of Section 21(e) of the Environmental Protection Act and shall pay a penalty of \$100.00 for such violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of the date of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

2. Respondent shall discontinue all refuse disposal activities at the site and properly close the site unless application for an operating permit is made to the Agency within 30 days of the date of this Order and such permit is obtained within 120 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 18th day of June, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board