

ILLINOIS POLLUTION CONTROL BOARD
December 2 , 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-485
)
 CITY OF CAIRO,)
)
 Respondent.)

Mr. John Van Vranken, Assistant Attorney General, Attorney
for Complainant
Mr. George J. Kiriakos, Attorney for Respondent

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

This matter comes before the Board on the Complaint filed on December 19, 1975, by the Environmental Protection Agency charging that the City of Cairo has operated a solid waste management site without the requisite permits in violation of Rule 202(b)(1) of the Solid Waste Rules and in further violation of Sections 21(b) and 21(e) of the Environmental Protection Act. An Amended Complaint was subsequently filed on January 5, 1976. A hearing was held in this matter on October 14, 1976, at which time a Stipulation of Parties and Proposed Settlement was entered into the record.

The City of Cairo has a population of approximately 6,700 persons and is located at the confluence of the Mississippi and Ohio Rivers. The solid waste management site which is the subject of the Complaint is located on levee land in Section 26, Township 17 South, Range 1 West, in Alexander County. As a result of the continuing investigation and settlement of this matter, the City has completely cleaned and cleared up the site (Stip. 3). The City also agrees to discontinue further operation of the site unless an operating permit is received and further agrees to pay a penalty of \$400.00 for its admitted violations of Rule 202(b)(1) and Section 21(e) of the Act (Stip. 2).

On the basis of the above facts and the Stipulation, which constitutes the entire record in this case, we find that the City did violate Rule 202(b)(1) and Section 21(e) of the Act

in the operation of the subject solid waste management site. The Stipulation of Parties and Proposed Settlement submitted by the parties is found adequate under Rule 333 of our Procedural Rules.

That portion of the Complaint alleging violation of Section 21(b) must be dismissed however. As was held in E & E Hauling, 16 PCB 215 (1975), a Section 21(b) open dumping charge is not properly based on a permit violation.

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

ORDER

1. Respondent, City of Cairo, is found to have operated a refuse disposal site without an operating permit in violation of Rule 202(b)(1) of the Board's Solid Waste Rules and in further violation of Section 21(e) of the Act and shall pay a penalty of \$400.00 for these violations. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 60 days of the date of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

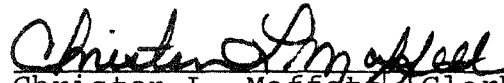
2. Respondent, City of Cairo, shall discontinue all refuse disposal activities at the subject site and properly close the site unless an operating permit has been applied for within 30 days of the date of this Order and obtained within 120 days of the date of this Order.

3. That portion of the Complaint alleging violation of Section 21(b) of the Act is hereby dismissed.

IT IS SO ORDERED.

Mr. Jacob D. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 2nd day of December, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board