

ILLINOIS POLLUTION CONTROL BOARD

February 6, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
v.) PCB 74-384
E. & D. ROBINSON CONSTRUCTION, INC.,)
an Illinois corporation,)
Respondent.)

Mr. Jeffrey S. Herden, attorney for Complainant.
Mr. John S. Sloan, attorney for Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On October 25, 1974, the Environmental Protection Agency (Agency) filed its Complaint with the Pollution Control Board (Board) against E. and D. Robinson Construction, Inc. The Complaint alleged that Respondent, the owner of a solid waste management site located in Section 14, Township 45 North, Range 11 East in Lake County, Illinois, operated its landfill without an Operating Permit from the Agency. These illegal activities were allegedly carried out from July 27, 1974, through October 25, 1974, in continuing violation of Rule 202 (b)(1) of the Solid Waste Regulations (Chapter Seven).

A hearing was held on December 18, 1974, in the Lake County Courthouse in Waukegan, Illinois. The landfill site is owned by the First National Bank of Waukegan under land trust (R.14); the beneficial owners are Melba and Ervin Robinson. Ervin and his son, David, operate the landfill site and are the sole stockholders in the E. and D. Robinson Construction Company (R.17). The evidence established that Respondent did not have a permit at the time of the hearing. A permit application had been submitted to the Agency on October 2, 1974, but it was denied on December 3 (Resp. Ex. 1). Grounds for denial included Respondent's failure to have a permit from the Lake County Health Department (Health Department) and insufficient data in the permit application to enable the Agency to evaluate the landfill's pollution potential (Resp. Ex.1). A request for a permit was made to the Health Department in July 1974 (Resp. Ex. 2), but a needed zoning change made necessary an appeal to the Lake County Zoning Board of Appeals (Zoning Board) (Resp. Ex. 3). Hearing on this zoning change was scheduled for January 9, 1975 (R.11), but it is not known whether the Zoning Board granted the zoning change.

Respondent offered testimony that it has attempted for one and one-half years to get a permit (R.27). The Agency offered no evidence that any adverse environmental impact occurred from the illegal operation of the landfill. Respondent indicated that non-putrescible building materials were deposited at this site (R.24). Operations at the landfill have now creased (R.12); the Respondent requested that the Board allow the site to operate until a permit is issued by the Agency (R.25).

We find that E. and D. Robinson Construction Company has violated Rule 202(b)(1) of Chapter Seven from July 27, 1974, through October 25, 1974. We assess a penalty of \$200.00. The amount would be greater but additional sums are better spent on preparing the landfill for operation. Also, Respondent is making belated but sincere efforts to comply with the Regulations, and there is no evidence of environmental damage from the site's illegal operation. Finally, Respondent is suffering an economic hardship in that the site is now closed. While we sometimes structure our Orders to allow a landfill to operate for a short time while compliance is being achieved, we will not do so here. We cannot be assured that continued dumping of refuse at the site would not have an adverse environmental impact on the area.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent cease and desist from operating its landfill site until it has been issued an operating permit from the Agency.

2. Respondent pay a penalty of \$200.00 for its violation of Rule 202(b)(1) of Chapter Seven established in this Opinion. Payment shall be by certified check or money order payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 35 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6th day of February, 1975, by a vote of 4 to

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Christan L. Moffett