

ILLINOIS POLLUTION CONTROL BOARD
July 17, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
)
v.) PCB 74-400
)
MURREL WEEDMAN,)
Respondent.)

Howard V. Thomas, Assistant Attorney General, appeared for the Complainant;
Randall S. Quindry, Attorney, appeared for the Respondent.

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

The Environmental Protection Agency (Agency) filed a Complaint before the Pollution Control Board (Board) on October 29, 1974, alleging that Respondent Murrel Weedman had operated a solid waste management site in Wayne County, Illinois, without an operating permit from the Agency, in violation of Section 21(e) of the Environmental Protection Act (Act) and Rule 202(b)(1) of Chapter 7: Solid Waste of the Board's Rules and Regulations. The Complaint alleged such violation from July 27, 1974 until October 29, 1974, and showed as specific dates July 30 and 31, 1974.

On December 13, 1974, the Agency filed a Motion to Appoint a Different Hearing Officer, which the Board denied in an Order issued December 19, 1974. A hearing was then held in Fairfield, Illinois, on January 13, 1975, at which time the parties entered a Stipulation of Fact which forms the basis of this Opinion and Order.

In that Stipulation, Respondent admitted that he had not obtained the operating permit required for existing solid waste management sites by Rule 202(b)(1) of the Solid Waste Regulations. Further, Respondent admitted that he therefore was in violation of that Rule and Section 21(e) of the Act.

In aggravation of the admitted violation, the Stipulation shows that beginning on October 17, 1973, the Agency sent Respondent nine letters indicating that the site is subject to the operating permit requirement under the Board's regulations. In mitigation, the Stipulation sets out various efforts which Respondent has made towards obtaining data necessary for completion of a permit application, and the difficulties which he encountered in the course of those efforts.

As early as 1972, Respondent attempted to engage an engineer in Fairfield to complete a permit application. That engineer, however, was unable to provide the survey and laboratory services needed to complete such application.

Later, in early 1973, Respondent attempted to obtain assistance from the U.S. Department of Agriculture Soil Conservation Service Office in Fairfield. While that office was able to provide topographic survey maps, it was unable to provide the soil borings Respondent feels are necessary. On October 29, 1974, Respondent contacted another engineering firm, which agreed to prepare the necessary materials for a permit application. That firm, as of the date of hearing, had already collected the necessary data and performed some laboratory testing.

In reviewing the matters submitted in mitigation, the Board notes that a lengthy period elapsed between the time Respondent contacted the Soil Conservation Service, in early 1973, and the October 29, 1974, date on which Respondent finally engaged an engineering consultant. Because of that gap, and the fact that Respondent clearly knew that an operating permit would be required, the Board feels that a penalty is appropriate in this case.

Turning to consideration of the factors set out in Section 33(c) of the Act, the Board has previously noted the value and necessity of the permit system for solid waste management sites. EPA v. McKee, PCB 74-403 (April 4, 1975); EPA v. E & E Hauling, Inc., PCB 74-473 (March 26, 1975). We have pointed out that the potential for injury to the environment from unregulated sites is enormous.

While such sites unquestionably have considerable social and economic value, that value may be considerably decreased, or even nullified, unless care is taken to insure that the site chosen is appropriate for this type of use. The Board noted, when adopting the Solid Waste Regulations, that sanitary landfills must be properly planned, particularly as regard ground water and subsurface characteristics, to prevent pollution of any waters of the state. In the Matter of: Chapter 7: Solid Waste Rules and Regulations, R72-5, 8 PCB 695, 697, 698 (1973). As the Board has previously stated, "... to protect the environment, a viable, enforced permit system is necessary for the orderly regulation of solid waste management sites." PCB 74-473 (Opinion at 4).

Neither the technical practicability nor the economic reasonableness of acquiring the necessary permit is in issue here. Respondent's long delay in seeking the advice necessary to prepare a permit application, and his failure to show any reasons for those delays, mandate the imposition of a penalty. Balancing the necessity of the permit system against Respondent's efforts to secure a permit, the Board finds that a penalty of \$500.00 would be appropriate.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD THAT:

1. Respondent Murrel Weedman is found to have operated a solid waste management site in Wayne County, Illinois, without the required operating permit from the Environmental Protection Agency in violation of Section 21(e) of the Environmental Protection Act and Rule 202(b)(1) of Chapter 7: Solid Waste, of the Board's Rules and Regulations, from July 27, 1974 until October 29, 1974.

2. Respondent shall pay as a penalty of such violation, a penalty of \$500.00, payment to be made by certified check or money order, within 35 days of the date of this Order to:

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

3. Respondent shall cease and desist the aforesaid violations, and shall cease operations on and properly close the subject site in accord with all applicable Board regulations, unless an appropriate operating permit has been issued by the Environmental Protection Agency within 120 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 17th day of July, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board