

ILLINOIS POLLUTION CONTROL BOARD
February 27, 1975

ENVIRONMENTAL PROTECTION AGENCY)
Complainant,)
)
v.) PCB 74-395
)
CITY OF CHILLICOTHE)
Respondent.)

Mr. Anthony Cameron, Assistant Attorney General, appeared on behalf of the Complainant.

Mr. James O. Christy, appeared on behalf of the Respondent.

OPINION AND ORDER of the Board (by Mr. Zeitlin)

The complaint in this matter was filed by the Attorney General for the Environmental Protection Agency (Agency) on October 29, 1974. The complaint alleges that Respondent, City of Chillicothe, conducted operation of a solid waste management site without the required permit from the Agency in violation of Section 21(e) of the Environmental Protection Act, and Rule 202(b)(1) of the Board's Solid Waste Rules and Regulations.

The Agency filed a Request for Admission on November 1, 1974 in which Respondent was asked to admit facts pertinent to the matter. These admissions, which were in fact made, were: 1) that Chillicothe did not at any time between July 27, 1974 and October 24, 1974 possess a solid waste management site permit from the Agency; and 2) that Chillicothe did in fact operate a solid waste management site.

The site in question, located in Peoria County, has been closed since the inception of this action.

At a hearing in the matter held on December 20, 1974, the parties stated that there were no disputes of fact, and entered a Stipulation and Proposed Settlement at that time. That Stipulation and Proposal for Settlement form the basis of this Opinion.

Section 21(e) of the Environmental Protection Act prohibits the operation of any refuse collection or refuse disposal operation without a permit granted by the Agency; Rule 202(b)(1) of the Board's Solid Waste Regulations requires such permit for existing solid waste management sites. Chillicothe has admitted to violations of these provisions of the Act and Regulation. Further, Chillicothe has agreed to "properly close the subject site, which site is already closed and locked, and not to again operate the said site until such time as a permit therefore shall issue..." Although it is not clear in the Stipulation, the Board

must assume that the "proper" closure of the site, as agreed to by the parties, will be made in contemplation of Rule 318 of the Board's Solid Waste Regulations, and all other Regulatory provisions for the closure of a solid waste management site. Should the required permit be issued by the Agency, of course, final closing Regulations would not be applicable.

In the Stipulation and Proposal for Settlement in this matter Chillicothe has also agreed to payment of a \$1,000 penalty for its admitted violations. Insofar as the Agency has approved the Stipulation in this matter, and noted Chillicothe's good faith in the record generated at hearing, such a provision for penalty is acceptable to the Board.

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

ORDER

It is the Order of the Pollution Control Board that;

1. Respondent City of Chillicothe is found to have operated a solid waste management site in Peoria County, Illinois in violation of Section 21(e) of the Illinois Environmental Protection Act and Rule 202(b)(1) of the Board's Solid Waste Rules and Regulations.

2. Respondent City of Chillicothe shall cease and desist all refuse disposal activities at the site in question, and properly close such site in conformance with all applicable Board Rules, unless and until an appropriate operating permit has been received from the Illinois Environmental Protection Agency.

3. Respondent City of Chillicothe shall, within 35 days of the adoption of this Order, pay as a penalty to the State of Illinois a sum of \$1,000, payment to be made by certified check or money order to:

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

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 27th day of February, 1975 by a vote of 4 to 0.

Christian L. Moffett
Christian L. Moffett, Clerk
Illinois Pollution Control Board