

Maureen



ENVIRONMENTAL APPEALS BOARD  
IN AND FOR THE STATE OF DELAWARE

IN RE: )  
WASTE OIL SERVICES ) No. 90-23  
)

FINAL ORDER

The matter came before the Environmental Appeals Board on December 11, 1990. The following Board members were present, Thomas J. Kealy, Chairman, Clifton H. Hubbard, Jr., Richard C. Sames, Joan Donoho, Ray K. Woodward, Mary Jane Willis, and Edward Cronin. Lawrence Collins, Appellant ("Appellant") represented himself. Deputy Attorney General Jeanne Langdon appeared on behalf of the Department of Natural Resources and Environmental Control ("DNREC"). Deputy Attorney General Ann Marie Johnson advised the Environmental Appeals Board ("Board").

SUBJECT OF THE APPEAL

The subject of the appeal is an application for a permit to transport hazardous waste pursuant to 7 Del. C. sec. 6306 and the regulations governing the transport of hazardous waste ("DRGHW"). For the reasons stated below the Board unanimously affirms the Secretary of the Department of Natural Resources and Environmental Control ("Department").

SUMMARY OF THE EVIDENCE

The Board put the chronology into evidence as Board Exhibit  
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1.

The appellant submitted an application to transport hazardous  
waste on January 22, 1990.<sup>2</sup> After review, the Department sent  
Mr. Collins a letter dated January 29, 1990 which outlined  
deficiencies in the application. (Bd. 1, Tab B). Subsequently  
on February 26, 1990, the Department was notified that Mr.  
Collins' \$300 application check was returned for insufficient  
funds. On March 3, 1990 Mr. Collins submitted a Money Order to  
cover the returned check. On March 12, 1990 Mr. Collins submit-  
ted a revised application which included the previously missing  
insurance policy. However, the insurance agent called the  
Department and informed them that the down-payment on the policy  
had been returned for insufficient funds. As late as August 24,  
1990 the insurance had not put been into effect and a check for  
the down-payment had not been provided to the insurance office.  
On August 28, 1990 the Department denied Mr. Collins request for  
permit because he failed to provide insurance as required and  
because of past violations of 7 Del. C. ch. 60. (Bd. 1, Tab D).

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References to documentary evidence will be as follows.  
Board Exhibit 1 will be designated "Bd. 1". Appellant's Exhibits  
as "App. \_\_\_\_"; and DNREC's Exhibits as "DNREC \_\_\_\_".

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Mr. Collins had a prior permit to transport waste oil which  
expired on July 1, 1989.

Mr. Collins appealed the decision on September 14, 1990. (Bd. 1, Tab E).

At the hearing, Mr. Collins did not dispute that he had failed to provide insurance with his application. He testified that he did not have the funds to pay for the insurance as a result of a contract dispute which he had with the Department of Parks and Recreation in June of 1989. He further testified that he had "the funds now, but he did not want to reinstate the insurance until he was sure his permit would be approved." The contract dispute involved his claim of a \$13,000 bill. Ultimately this dispute was settled for \$5,000. He stated that he only wished to get himself "back on track" and wanted to obtain his permit so that he could resume his business again.

On cross-examination he admitted that he had been convicted of issuing a bad check in 1984, and that his permit check and his insurance company check had been returned for insufficient funds. He also admitted that in September, 1989 his driver's license had been suspended for six months for failure to have insurance. He testified that he had purchased a new car but, drove it before he changed the title to his name. He admitted that even though his license was returned in May, 1990 that it was suspended again in July, 1990 because the check with which he paid his fine was returned for insufficient funds. Finally, he admitted he had six

or seven points on his record because of moving violations including taking an improper right hand turn, speeding, and for obtaining a speeding ticket and for disregarding a red light on two occasions. Mr. Collins' driving record was put into evidence as DNREC 1. It revealed that Mr. Collins had two tickets for disregarding a red light and a speeding ticket for going 71 m.p.h. in a 55 m.p.h. zone.

Don Short, Environmental Scientist in the Hazardous Waste Management Unit testified first for the Department. He reviews applications and makes recommendations for approval or denial. He testified that waste oil could cause great harm to the environment and that it has the potential to be hazardous if hazardous waste is mixed into it. He also testified that both the failure to have insurance with the application and the prior violations would be a sufficient basis for denial of the application.

Next to testify was Gene Mullen, Environmental Protection Officer. He testified that he had arrested Mr. Collins for hauling waste oil without a permit and for driving an unregistered vehicle.

Also to testify was Chief William W. Hill, Environmental Protection Officer. Chief Hill testified that he had known Mr. Collins since 1986. He testified that he had warned Mr. Collins a number of times about transporting waste oil without a permit. He had personally been aware of several violations of Mr. Collins' for driving without a permit. In his closing Mr.


Collins admitted that most of the evidence was true and that in the past he had not paid enough attention to the administrative part of his business. He argued that he was good at hauling waste but was not a good administrator.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Board finds that Mr. Collins application did not contain the certificate of insurance as required by sec. 263.101 of the Delaware Regulations Governing Hazardous Waste. Additionally, the Board finds that Mr. Collins had a number of serious motor vehicle violations on his record, and that he had operated his truck to transport hazardous waste without a permit on several occasions. The Board finds that Mr. Collins did not dispute this evidence.

Pursuant to 7 Del. C. ch. 63, the Secretary has the authority to regulate the transport of hazardous waste. 7 Del. C. secs. 6303, 6305, 6306. The purpose of chapter 63 includes protection of the public health and safety and the environment from such hazardous waste. Waste oil is a hazardous waste pursuant to 7 Del. C. sec. 6302(7) and (12). It is within the Secretary's authority to require insurance and that those

parties transferring hazardous waste are responsible individuals and safe drivers. For the above reasons, <sup>finds that the Secretary</sup> the Board properly denied the application for a permit and affirms the findings of the Secretary.

  
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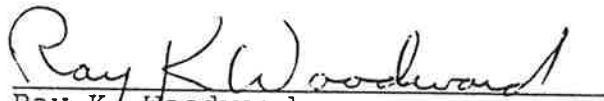
  
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