

ILLINOIS POLLUTION CONTROL BOARD

August 15, 1996

PEOPLE OF THE STATE OF ILLINOIS,)

Complainant,)

v.)

ROCKFORD BLACKTOP CONSTRUCTION)

COMPANY,)

an Illinois corporation,)

Respondent.)

PCB 96-257
(Enforcement - Mine)

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a seven-count complaint filed June 19, 1996, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Rockford Blacktop Construction Company (Rockford Blacktop), an Illinois corporation, located in Winnebago County, Illinois. The complaint alleges that Rockford Blacktop violated Sections 12(a) and 12(b) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/12(a) and 5/12(b)) and 35 Ill. Adm. Code 404.101(a)(1) and 404.101(a)(2) for failure to obtain a state mining construction permits and failure to obtain a state mining operating permit.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on June 19, 1996. The Board published a notice of the waiver on June 24, 1996; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on June 19, 1996. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Rockford Blacktop admits the alleged violations and agrees to pay a civil penalty of eight thousand five hundred dollars (\$8,500.00).

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

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

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Rockford Blacktop Construction Company (Rockford Blacktop), an Illinois corporation, located in Winnebago County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Rockford Blacktop, shall pay the sum of eight thousand five hundred dollars (\$8,500.00) within 30 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

The certified check or money order shall clearly indicate on its face Rockford Blacktop's Federal Employer Identification Number 36-2051940 and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and check shall be simultaneously submitted to:

Alyssa L. Fron
Assistant Attorney General
Environmental Bureau
100 West Randolph Street
Chicago, Il. 60601

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- 3) Rockford Blacktop shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the ____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board