

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 1982

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 77-25  
 )  
 MARQUETTE CEMENT MANUFACTURING COMPANY, )  
 )  
 Respondent. )

MR. DENNIS FIELDS, SPECIAL ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT;

MR. JOSEPH S. WRIGHT, JR., ROOKS, PITTS, FULLAGAR AND POUST, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

On January 21, 1977 the People of the State of Illinois (People) filed a Complaint against the Marquette Company (Marquette) alleging violation of certain of the Board's Air Pollution Rules and sections of the Illinois Environmental Protection Act (Act) at Marquette's Portland Cement Manufacturing facility located in or near Oglesby, LaSalle County, Illinois. On January 26, 1977 an Amended Complaint was filed substituting the Illinois Environmental Protection Agency (Agency) for the People as Complainant herein. On February 24, 1978 a second Amended Complaint was filed by the Agency alleging violation of Rules 103(b)(1), 103(b)(2), 105(a), 203(a), 203(f)(2), 301, 307(a)(1)(A), 307(a)(1)(B), 307(a)(2)(A), and 307(a)(2)(B) of the Board's Air Pollution Control Regulations and Sections 9(a) and 9(b) of the Act in eleven separate counts.

This matter was continued generally until December, 1979 to allow the parties discovery and negotiation. A hearing was held on December 31, 1979, and on December 12, 1980, approximately one year later, a Proposal for Settlement and Stipulation to Dismiss was filed with the Board. The Board rejected the Proposal for Settlement on January 13, 1980 as it did not dispose of the matter in its entirety and no hearing had been held pursuant to Rule 331(b) of the Board's Procedural Rules. Subsequently, on January 22, 1981, the Board modified its rejection by preliminarily approving the framework of the Proposed Settlement and ordering the final terms of the settlement to be presented at a public hearing prior to submission to the Board for final approval. A second hearing was held on October 26, 1981 at which a final Proposal for Settlement and Stipulation

to Dismiss (Stipulation) was presented to the Board. The Stipulation calls for a series of actions by the parties culminating with the Agency issuing an operating permit to Marquette and motioning to dismiss this matter before the Board. On January 20, 1982 the parties filed a Motion for Entry of Final Order accepting and approving the parties' proposed Stipulation and dismissing this case with prejudice. The Board has received only favorable public comment on this matter.

The proposed Stipulation recites a Statement of Facts as follows. Marquette owns and operates a Portland Cement facility, known as the Oglesby plant, which generates particulate matter that is emitted into the atmosphere. The Agency alleges that at hearing it would offer proof of the violations noted in the second Amended Complaint, including evidence concerning operating permits, fugitive particulate matter, storage silos, and operation during malfunction, breakdown or startup resulting in air pollution and violation of the ambient air quality standards. Marquette alleges that at hearing it would offer evidence to rebut the Agency's allegations and, in addition, would show various plant improvements related to environmental matters and the social value and suitability of location of its Oglesby plant. The Stipulation recites the facts in more detail which will not be repeated here.

In the proposed Stipulation, Marquette agrees to install and operate certain equipment and to operate the Oglesby plant in accordance with the malfunction, breakdown and shutdown procedures developed as a result of stack tests conducted by the parties. Other duties required of Marquette include reporting any complaints and air pollution incidents to the Agency and agreement to institute a program to control fugitive emissions as agreed between the parties. Compliance with the terms of the Stipulation by Marquette is to be held in abeyance any time operation of the Oglesby plant may be terminated and the time for compliance may be extended for a period negotiated by the parties to accommodate delays caused by circumstances beyond the control of Marquette. On acceptance by the Board of the Stipulation, Marquette shall move to dismiss the case of Marquette Cement Manufacturing Company v. Michael Mauzy, et al., No. 77-MR-8 (Cir. Ct., LaSalle County, Illinois) and shall pay a sum of \$15,000 to the State of Illinois within thirty-five (35) days of the date the Board adopts the Final Order dismissing the Complaint with prejudice.

Upon review of the proposed Stipulation, the Board finds that it is a reasonable resolution of the matter and adequately protects the environmental concerns of the State. The Board shall therefore grant the parties' January 20, 1982 motion and dismiss this action, with prejudice, in consideration of the execution of the proposed Stipulation by the parties herein.

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


ORDER

1. The Illinois Environmental Protection Agency and the Marquette Company shall execute their duties as recited in the Settlement Agreement and Stipulation to Dismiss (Stipulation) filed on October 26, 1981, which Stipulation is hereby incorporated by reference as if fully set forth herein.
2. The Marquette Company shall pay a sum of \$15,000 to the State of Illinois within thirty-five (35) days of the date of this Order, such payment to be made to: Fiscal Service Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.
3. The Complaint, Amended Complaint, and second Amended Complaint in this matter are hereby dismissed with prejudice.
4. The Board shall retain jurisdiction in this matter for the purpose of resolving disputes arising between the parties under the provisions of the Stipulation.

Board Member D. Anderson abstained.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 4<sup>th</sup> day of February, 1982 by a vote of 3-0.

  
 Christan L. Moffett, Clerk  
 Illinois Pollution Control Board