

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
)
v.) PCB 76-69
)
)
DALLAS PRESNELL, as an Individual,)
DALLAS PRESNELL, HARVEY PRESNELL and)
ORA PRESNELL, d/b/a PRESNELL BROS.)
READY-MIX CONCRETE COMPANY,)
)
Respondent.)

MR. GEORGE TINKHAM, Assistant Attorney General, appeared for the Complainant;
MR. WILLIAM AMLING, appeared for the Respondents.

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

This matter comes before the Board on a Complaint filed by the Environmental Protection Agency on March 8, 1976 against the owners and operators of Presnell Brothers Ready-Mix Concrete Company in Pana, Christian County, Illinois. The Complaint alleges operation of the ready-mix concrete plant and the installation of air pollution control equipment onto the plant without required Agency permits in violation of Air Pollution Control Regulations 103(b)(2) and 103(b)(1) and Section 9(b) of the Environmental Protection Act.

On April 26, 1976 Respondents submitted their Answer to Request for Admission of Facts which request was filed by the Agency on April 12, 1976. Respondents there admitted all essential elements of the alleged violations (see also R. 4, 56). A hearing was held on April 30, 1976. The sole issue in this case is the fashioning of an appropriate remedy.

The character of the injury to or interference with the protection of health and property in this cause is limited to the lack of permits. No pollution per se is alleged (R. 4). However, the failure to obtain permits does indeed interfere with the mechanisms set up by the Act to protect health and property. The permit program has long been recognized as the core of the effort to protect the health, welfare, and property of the people of Illinois from environmental hazards. There

is also no dispute as to the social and economic value of the operation or the suitability of the site, or the technical practicability or economical reasonableness of obtaining the required permits.

The only issue presented regards the extent to which Respondent Dallas Presnell's dealings with the Agency will act as mitigation. Mr. Dallas Presnell is the managing partner of Presnell Brothers, owner of the subject plant and a trucking and building materials business (R. 30). In spite of some efforts to obtain permits it is clear that he simply neglected to submit proper documentation. Considering the entire record in this case the Board finds that a penalty of \$300.00 will encourage the Presnell Brothers and others to show proper diligence in compliance with the law. The Act's permit requirement must be taken seriously.

This Opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. Respondents Dallas Presnell, as an individual and Dallas Presnell, Harvey Presnell and Ora Presnell, d/b/a Presnell Brothers Ready Mix Concrete Company are hereby found to have violated Air Pollution Regulations 103(b)(2) and 103(b)(1) and Section 9(b) of the Act.

2. Respondents shall cease and desist all concrete batching operations within 120 days of the date of this Order unless they have obtained the required operating permits.

3. Respondents shall pay, with joint and several liability, to the State of Illinois the sum of \$300.00 as a penalty for the aforesaid violations. Payment shall be made by certified check or money order within 35 days of the date of this Order to:

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

IT IS SO ORDERED.

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 February, 1977 by a vote of 4-0.



Christan L. Moffett, Clerk

Illinois Pollution Control Board