

ILLINOIS POLLUTION CONTROL BOARD
January 14, 1976

ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
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)
)
 v.) PCB 75-152
)
)
 CHENOA STONE COMPANY,)
)
 Respondent.)

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

This matter comes before the Pollution Control Board (Board) on a Complaint filed by the Environmental Protection Agency (Agency) on April 9, 1975 against Respondent Chenoa Stone Company (Chenoa Stone), located in Eppards Point Township in Livingston County, Illinois.

The Complaint alleges that Chenoa Stone owns and operates a rock crushing operation which includes a primary crusher, two hammermills, and a number of screens and conveyors. It is further alleged that Chenoa Stone has violated Section 9(b) of the Environmental Protection Act (Act) and Rule 103(b)(2) of the Air Pollution Control Regulations by having operated without an operating permit issued by the Agency. A hearing was held on November 4, 1975 at which a Stipulation of Fact and a Proposed Settlement between the parties were read into the record accompanied by six joint evidentiary exhibits. No further testimony was given by either party or anyone else present.

Stipulations 1-4 (R. 5) admit to the Complaint's allegations as to ownership and the nature of the operation. Stipulation 5 admits that Chenoa Stone's equipment constitute "emission sources" as defined in Rule 101 of the Air Regulations. Stipulation 6 admits to failure to obtain operating permits. Stipulations 7-15 provide a history of the contacts between the two parties, beginning approximately August 9, 1972. After having been informed of the necessity of an operating permit, Chenoa Stone applied for construction and operating permits on June 25, 1973. The construction permit was granted, but the Agency denied an operating permit due to the fact that Chenoa Stone had "not shown that significant emission sources are in compliance with presently applicable standards" (Joint Exhibit #1, Agency letter of July 5, 1973). The Agency letter denying the operating permit further stated: "We are pleased to note that your operating permit application included a construction permit application for control equipment which may bring this operation into compliance".

On April 11, 1975 Chenoa Stone again applied for an operating permit. This application was also denied as Chenoa Stone had not completed the work called for in its construction permit. In the Stipulation and Joint Exhibits, Chenoa Stone has admitted essentially all of the allegations contained in the Complaint. The Proposed Settlement states:

It is further stipulated and agreed that in view of the foregoing that an order should be entered by the Board in the following respect:

Number 1, that a violation of the Act as alleged be found and that a Three Thousand Dollar fine be imposed. Said fine to be payable within 35 days of the entry of the Order by the Board;

Number 2, that the construction permit heretofore issued be complied with and the work therein set forth with some possible variation, if needed, be completed, and that an operating permit be applied for within a hundred days of the entry of the Order of the Board (R. 9, 10).

The record clearly indicates numerous warnings from the Agency to Chenoa Stone regarding the necessity of obtaining operating permits. However, after the first application was denied, it was almost 2-1/2 years since the issuance of the construction permit. The terms of that permit have not yet been fulfilled even though completion is necessary to avoid further violations of Air Regulations (emissions standards) and qualify for an operating permit. It should be emphasized here that the failure to obtain an operating permit in the present case is no mere "technical violation". It is a violation which goes to the heart of the enforcement program. Chenoa Stone was denied an operating permit because of probable violations of emission standards (Joint Exhibit #1). Chenoa Stone was issued a construction permit to allow it to come into compliance, but after almost two years Chenoa Stone had not complied with the terms of the construction permit. During that time it has been allowed to operate in probable violation of emission standards. Chenoa Stone was given every opportunity to comply.

The Board therefore finds that a substantial penalty is appropriate in this case. A penalty of \$3,000 would act to protect the integrity of the permit program, which is an integral part of the Act's environmental program.

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

ORDER

1. The Board hereby finds Respondent Chenoa Stone Company to have violated Rule 103(b)(2) of the Air Pollution Control Regulations and Section 9(b) of the Environmental Protection Act.

2. Respondent Chenoa Stone Company shall pay for the aforesaid violation a civil penalty of \$3,000, payment to be made within 35 days of the date of this Order by certified check or money order to:

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

3. Respondent Chenoa Stone shall complete the work required in its construction permit, with any modifications necessary for compliance with emission standards, and apply for an operating permit within 100 days of the date of this Order.

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 14th day of January, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board