

ILLINOIS POLLUTION CONTROL BOARD

December 13, 1973

ENVIRONMENTAL PROTECTION AGENCY)
)
)
 v.) PCB 73-270
)
)
 J. C. BREMER, d/b/a TRI-COUNTY)
 STONE COMPANY)

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

The Environmental Protection Agency (hereinafter called EPA) filed a Complaint against J.C. Bremer, doing business as Tri-County Stone Company on July 2, 1973. Respondent owns and operates certain facilities and conducts operations including, but not limited to, blasting, conveying, crushing, screening and storage of crushed limestone at a location two miles north of Nokomis, Illinois, on the Nokomis-Taylorville road.

The EPA alleged that Respondent operated its facilities on or before July 6, 1972 and continuing to the filing of the Complaint so as to allow or cause the discharge or emission of limestone dust and other contaminants into the atmosphere in violation of Rule 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution, continued effective pursuant to Section 49(c) of the Environmental Protection Act. Under Chapter Two of the Air Pollution Regulations of the Pollution Control Board (hereinafter called Chapter Two), Rule 203(i)(2) indicates that if Respondent is found to be violating existing regulations so that the installation of new equipment is necessary, Respondent must comply with Rule 203(a) of Chapter Two entitled Particulate Emission Standards and Limitations for New Process Emission Sources. Respondent must comply with Rule 203(a) of Chapter Two by December 31, 1973 because he does not satisfy the test of Rule 203(i)(5)(B) of Chapter Two in that he is not now in compliance with Rule 3-3.111.

On September 26, 1973, a hearing was held in Hillsboro,

Illinois. Respondent was represented by counsel, Mr. Vandiver. Written and oral Stipulations of Facts were made part of the record. The written Stipulation of Facts shows that:

(1) Respondent was emitting 62.5 pounds per hour from the primary crusher; 250 pounds per hour from screening, conveying, and handling; and 180 pounds per hour from the secondary crusher.

(2) Allowable rates under Rule 3-3.111 are 53.5 pounds per hour from each of these three sources.

(3) Respondent violated Rule 3-3.111 and must install new equipment that satisfies Rule 203(a) of Chapter Two. Allowable emissions under Rule 203(a) are 33.5 pounds per hour from the primary crusher; 33.5 pounds per hour from screening, conveying, and hauling; and 32.8 pounds per hour from the secondary crusher.

The Stipulations of Facts indicate that Respondent applied for a Construction and Operating Permit from the EPA and was granted a Construction Permit on July 2, 1973. At the time of the hearing, Respondent had already completed installation of the spray bar dust suppression system. This enabled him to comply with Rule 203(a) of Chapter Two. At the time of the hearing, this precipitator had been in operation for one week.

The proposed order by the parties included installation of control equipment and payment of a \$750.00 penalty. That equipment has already been installed. The parties stipulated and agreed that in the event this proposed order was not approved by the Board, this case was to be returned to the Hearing Officer for the taking of further evidence.

We hold that the settlement agreed to by the parties should be carried out. Recently in EPA v. Central Illinois Stone Company, #73-243, 9 PCB ; October 18, 1973, we penalized a neighbor of Mr. Bremer's \$1000 for violations of the Act and Rules for carrying out his business in a manner quite similar to this present action. The factors calling for a heavier penalty in that case were that the pollution emission amounts were somewhat greater and Respondent, Central Illinois Stone Company, could not comply as quickly as the Respondent in this case. Furthermore, where the parties have agreed to the disposition of the case, and the proposal is reasonable resulting in abatement of future pollution problems, we are inclined to accept the Stipulation and enter our Order accordingly. See EPA v. Texaco, #72-98, 4 PCB 551,

This Opinion constitutes the finding of fact and conclusions of law of the Board.


ORDER

It is the Order of the Pollution Control Board that:

(1) Respondent cease and desist from violating the Rules and Regulations as established under this Opinion.

(2) Respondent pay a penalty of \$750.00 for the violations of the Rules and Regulations as described in this Opinion. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be tendered within 30 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 13th day of December, 1973, by a vote of 5 to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board