



Illinois. Respondent was represented by counsel, Mr. Bliss. A written Stipulation of Facts was made part of the record. The written Stipulation of Facts shows that:

(1) Respondent was emitting 87.5 pounds per hour from the primary crusher; 350 pounds per hour from screening, conveying, and handling; and 255 pounds per hour from the secondary crusher.

(2) Allowable rates under Rule 3-3.111 are 57.1 pounds per hour from the primary crusher; 57.1 pounds per hour from screening, conveying, and handling. Allowable emissions from the secondary crusher are 56.8 pounds per hour.

(3) Respondent may have violated Rule 3-3.111 but in any case agrees to install new equipment that satisfies Rule 203(a) of Chapter Two. Allowable emissions under Rule 203(a) are 40.1 pounds per hour from the primary crusher; 40.1 pounds per hour from screening, conveying, and hauling; and 39.4 pounds per hour from the secondary crusher.

The Stipulation of Facts indicate that Respondent applied for a Construction and Operating Permit from the EPA on April 16, 1973 and was granted a Construction Permit on July 13, 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 by the time of the hearing.

The proposed order by the parties included installation of control equipment and payment of a \$500.00 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 \$1000 for violations of the Act and Rules for carrying out his business in a manner quite similar to this present action. Following that case, we penalized another neighbor, Mr. Bremer, \$750.00 for similar violation of the Act and Rules. See EPA v. J.C. Bremer, #73-241, 9 PCB, (December 13, 1973). We believe that mitigation is in order here in that Respondent took action to have the dust control equipment installed following its receipt on August 10, 1972, of the communication from the EPA indicating possible excessive emissions. 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, 553 (May 23, 1972).

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 \$500.00 for the violations of the Rules and Regulations as described in this Opinion and agreed to pursuant to Stipulation. 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.

Mr. Henss was not present.

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 3<sup>rd</sup> day of January, 1974 by a vote of 4 to 0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board