ILLINOIS POLLUTION CONTROL BOARD

June 14, 1973

ENVIRONMENTAL PROTECTION AGENCY, Complainant,	)	
vs.	)	PCB 72-413
OCOYA STONE COMPANY, Respondent.	)	

Prescott E. Bloom, Assistant Attorney General on behalf of the EPA
Alonzo Clay, Attorney for Ocoya Stone Company

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

Ocoya Stone operates a limestone quarry and rock crushing plant located approximately 5 miles south of Pontiac and 3 miles east of Ocoya, in Livingston County. The Ocoya facility is known as the Kridner Pit and is one of 9 limestone quarries located in the Ocoya-Pontiac area.

The Environmental Protection Agency has charged Respondent with the following violations:

1) Excessive emission of limestone dust from July 1, 1970, specifically June 16 and 17, 1971, August 16, 1971 and February 3, 1972, causing air pollution in violation of Section 9(a) of the Environmental Protection Act and Section 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution,

2) The installation of equipment capable of emitting air contaminants in March 1970 without permit, in violation of Section 3-2.110 of the Rules,

3) Emission of fugitive particulate matter since October 14, 1972 in violation of Rule 203(f) of the Air Pollution Control Regulations and,

4) The failure to file a Letter of Intent and Air Contaminant Emission Reduction Program (ACERP) since April 15, 1967 in violation of Section 2-2.3 and 2-2.4 of the Rules.

Respondent admitted installing a crusher without permit, the failure to file a Letter of Intent and the failure to file an ACERP (R. 184-185), but denied that it caused air pollution.

During four days of public hearings, the Agency relied upon the testimony of two persons residing near the quarry, an agronomist and a State Police officer to prove the air pollution charge. Ronald Schultz testified that dust from the quarry operation forced him to move out of a home in which he had resided for 40 years. Schultz continues to use the land for livestock and farming operations. He stated that he had observed dust blowing from the Ocoya plant when it was in operation. The dust conditions were worse when the wind was from the southwest, which is about half the time during summer (R. 104). His car, yard and house had been "covered white with lime dust" (R. 105) and because of the dust conditions, he was prohibited from cooking outdoors when the wind was from the southwest (R. 106). Schultz testified that he moved away from the quarry area because he couldn't keep the dust out of his home and because a doctor had advised the move to alleviate his wife's asthma problem. (R. 106) He stated that his wife's health was "about 100% different" since the move (R. 107). Schultz testified that he had complained about the dust to Ocoya representatives on several occasions. He said there is no dust problem from the stock pile area after a rain or during low wind velocity, and emissions from the equipment occur only during plant working hours.

Trooper Jerry Burton testified that his official duties took him by the plant from 2 to 5 times per week. Burton expressed concern that dust from the plant formed a residue on a nearby blacktop road which created a slick condition during periods of moisture (R. 150). Although he could not remember exact dates, Burton said he observed a limestone residue on the blacktop "several times" (R. 153). Burton admitted on cross examination that some of the dust could have been deposited by trucks hauling limestone from other nearby quarries.

Kenneth Kelson has resided about 40 rods east of the crushing plant since 1950. He farms land which borders the Ocoya plant. He testified that the emissions from the Ocoya facility have "been pretty bad at times" and that "there are not too many days that some part of our place doesn't get the dust" (R. 106). He identified the main plant as the major source of emissions but added that the emissions from the stockpile on several occasions had been so dense that he wouldn't know whether the plant was shut down (R. 117). Kelson stated that his air conditioned home is "a mess" and he must leave his storm windows in place year around in order to keep the dust out of his home (R. 119). He described dust conditions as "so bad that you can't open your eyes walking around the buildings up there" (R. 119). Kelson added that there had been days when he was forced to leave the field bordering the Ocoya plant and go to other fields because he couldn't stand the dust while corn picking or shucking (R. 123). Sometimes he had to wait for rain to wash the

dust from plant leaves before he could shuck corn or pick beans. Ocoya Stone paid $300 to Kelson in 1971 for damage done to soy beans. Kelson testified that soil tests performed on samples taken from land near the plant indicated a higher pH (alkaline) than was evident in samples taken away from the plant area.

John Bossingham, an agronomist, testified that the Kelson soil samples were analyzed by Edwards Soil Service. Bossingham used the analysis as a basis for his recommendation that no lime be applied in this farm field. The normal soil pH in the area of Kelson's farm ranges from 5.9 to 6.4, but two of the Kelson samples taken near the crushing plant exhibited pH values of 7.6 and 7.9. Bossingham classified these pH values as "sweet" which he felt would be "probably more harmful than being too acidy..." (R. 136) He classified the high pH values as "more than ordinary" and stated that it was rare to have soil pH values that high. However, the agronomist believed that the dust deposited in the area presented more of a problem than a high soil pH, because the dust causes shading which has a "deleterious affect on crop yield" (R. 140). He estimated the increase in pH value from the normal range to pH 7.6 would cut soy bean yield approximately 13%.

Agency photographs of the crushing plant in operation show a white cloud of dust trailing away from the facility. The evidence proves that Ocoya has emitted particulates which unreasonably interfere with the enjoyment of life and property and do damage to plant life.

The Agency introduced calculations by Agency engineer, John Shum in an attempt to show that particulate emissions were in violation of Rules. The following emissions were calculated: (Exhibit 10)

	June 1971		August 1971	
	Allowable lbs./hr.	Actual lbs/hr.	Allowable lbs./hr.	Actual lbs/hr.
Primary Crusher	53.0	58.8	52.4	53.6
Secondary Crushing and Screening	52.1	158.7	51.0	144.9
Tertiary Screening	50.2	179.8	49.4	164.2
Storage Pile Losses	53.0	1176.0	52.4	1073.0

Respondent stipulated to the process weight figures used by the Agency in calculating the emissions, but objected to the Agency's use of emission factors in arriving at the estimate. Respondent made no attempt to show that its facility was in compliance. Rather,

its defense was an attack on the use of emission factors. In the past we have held that emission factors may be used to prove a violation although actual test data are more desirable in situations which allow testing. (EPA vs. Lindren Foundry Company, PCB 70-1 and EPA vs. Commonwealth Edison Company, PCB 70-4)

In the Ocoya operation, part of the rock is passed through a separate and distinct screening process after being crushed. An Agency investigator testified that this was a third screening operation "downstream from the secondary" (R. 201) and Complainant's Exhibit No. 11 shows that there was a third screening operation after two prior screening operations. The Agency calculated additional emissions from this source under the title "Tertiary Screening". Ocoya objected strongly to this calculation, saying that screening was a part of the crushing process. We feel that in the Ocoya operation this additional screening was a separate emission source and that the total emissions could not be learned without including the calculations of emissions from this tertiary screening.

Respondent's General Manager, Albert Markgraf, testified that he had been aware of the need for air pollution control equipment since Agency investigator Henricks visited the plant in June 1971 (R. 362). Markgraf said the Johnson-March Corporation had done a study of Ocoya's operation in 1971 and proposed the installation of a Chem-Jet System, which Johnson-March guaranteed would meet Federal and State air pollution requirements for particulate emissions. Ocoya ordered this system on January 12, 1973 (Respondent Exhibit 2B). The cost of equipment for the Chem-Jet System is $14,187 and Markgraf estimated installation charges could run another $14,000.

Markgraf testified that he would have ordered the equipment sooner except that the Illinois Aggregate Association had told him he could not install the equipment even if he did get it (R. 367). When asked if the Association had given this advice at an annual or quarterly meeting, Markgraf answered "Right, and word of mouth among ourselves" (R. 367-368). Markgraf added "I mean that all of these Regulations have been so vague with all of us, that we just never got a direct ruling as to what you should do or what you could do." (R. 367). This is a weak excuse for 18 months delay and indicates that Respondent simply did not bother to become informed of requirements.

The control equipment recommended by Johnson-March in 1971 has now been delivered to the plant and Ocoya has applied for an EPA permit for its installation.

We find Ocoya Stone Company guilty of causing air pollution in violation of Section 9(a) of the Environmental Protection Act and

Section 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution. We further find, as agreed by Ocoya, that the Company has installed equipment capable of emitting air contaminants without a permit, has failed to file a Letter of Intent and has failed to file an ACERP. We find Ocoya not guilty on the charge that it emitted fugitive particulate matter in violation of Rule 203(f) of the Air Pollution Control Regulations. Rule 203(f)(3) specifies that the Regulation is inapplicable when the wind speed exceeds 25 mph. Therefore, it is essential, with regard to that charge, that there be evidence of wind speed as well as evidence of emissions. Nowhere in the record do we find any reference to wind speeds on the dates alleged for fugitive particulate violations.

The record is clear that Ocoya could have reduced emissions in 1971 with the installation of a control system which the Company is now willing to adopt. Ocoya chose to continue its violation of the law and disruption of the lives of neighbors for an additional 18 months. For this a monetary penalty of $2500 is appropriate. In addition, we shall order Respondent to proceed with the installation of equipment and any procedural modifications necessary to bring its operation into compliance with the law.

ORDER

It is ordered that:

1. Respondent shall pay to the State of Illinois by July 27, 1973 the sum of $2500 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Drive, Springfield, Illinois 62706.

2. Respondent shall proceed with the installation of equipment and any alteration of procedures necessary to bring its operation into compliance with the Statute and the Regulations governing particulate emissions. This compliance shall be achieved 90 days after the Illinois Environmental Protection Agency issues the necessary permit for installation of pollution control equipment but not later than November 15, 1973.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 14th day of June, 1973 by a vote of 3 to 0.

Christan L. Moffett