

violation of Rule 3-2.110 of the Rules and Regulations Governing the Control of Air Pollution, which was in effect at the time, pursuant to Section 49(c) of the Act.

COUNT III

Respondent is alleged to have operated a rock-grinding facility from April 1, 1972, in a manner which caused the emission of particulates in amounts which constituted a violation of Rule 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution and Section 9(a) of the Act.

COUNT IV

Respondent is alleged to have caused the emission of particulates, sulfur dioxide, sulfur acid mist, fluorides and other matter into the atmosphere, since April 1, 1972, in violation of Section 9(a) of the Act.

A hearing was held on October 3, 1974, at which time no testimony was offered but a Stipulation and Proposed Settlement was submitted to the Board.

The following numbered paragraphs are cited from the Stipulation:

5. "The Agency has received various citizen complaints regarding the Respondent facility and other plants in the same geographic area.

7. **The Respondent** states and the Complainant is informed and believes, based upon information submitted to the Agency in the permit process by the Respondent, that all emissions from the Respondent facility are currently in compliance with the Illinois Pollution Control Board Rules and Regulations Governing Air Pollution.

8. Prior to the commencement of this enforcement action the Respondent applied for an operating permit for the rock-grinding and handling facility. This application was denied, pending the construction of the baghouse dust collectors. The construction of the baghouse dust collectors was completed prior to the commencement of this action and the Agency was notified of that fact and the operating permit application process was reactivated. That operating permit was granted by the Agency at approximately the time of the drafting of the complaint herein.

9. On or about December 7, 1972, the Respondent applied for an operating permit for the sulphuric acid plant. On or about March 14, 1973, that application was denied by the letter dated March 14, 1973 which stated that,

"Your application for the above referenced operating permit is denied because the discharge or emission of contaminants into the environment from the equipment referenced above would cause or tend to cause air pollution in Illinois either alone or in combination with contaminants from other sources. The Agency will consider a new application from you for an operating permit so long as the application contains information which remedies the deficiencies stated above".

The Respondent had several phone conversations with the Agency regarding this action but no further steps were taken.

With respect to the phosphoric acid plant, the Respondent applied for an operating permit on December 7, 1972. By letter dated January 18, 1973, the Agency informed the Respondent that the permit was deemed not filed because of certain inadequacies with respect to the information submitted. On or about April 24, 1973, the Respondent submitted to the Agency the requested information. No further correspondence transpired with respect to that operating permit application.

10. The Respondent made no attempt to apply for a construction permit for the Brinks Demister. The Brinks Demister is an item of emission control equipment on the sulphuric acid plant which is believed by the Respondent to have a reduction efficiency of approximately 99.3%.

SETTLEMENT

11. Respondent will take all necessary steps to immediately re-activate its applications for operating permits with respect to the sulphuric acid plant and the phosphoric acid plant.

12. National Phosphate shall, in the future, notify the Agency Emergency Action Center, Area Code 217/782-3637, in the event that a leak, spill or equipment malfunction occurs which releases any significant amount of ammonia into the atmosphere; that in the event of such release of significant amounts of ammonia the Agency and the Respondent shall work together to prevent or minimize any adverse environmental effects or impact caused by said occurrence.

13. Respondent shall perform hourly Reich Tests for monitoring sulphur dioxide emission or, in the alternative, Respondent may install and operate an instrument capable of continuously monitoring and recording sulphur dioxide emission from the sulphuric acid plant. Such instrument shall conform in all

manner to the requirement of subparts 60.84 (A-c) Part 60, Ch. 1, Title 40 of the Code of Federal Regulations, entitled Standards of Performance for New Stationary Sources as published in the Federal Register, Vol. 36, No. 247-Thursday, December 23, 1971. Whenever the sulphur dioxide emission rate exceeds 2000 ppm average two hours concentration as measured by the above instrument, the sulphuric acid plant will be shut down. Upon correction of the condition or conditions causing said sulphur dioxide emission rate in excess of 2000 ppm, the plant may resume normal operations.

14. A record of the above-described testing results shall be maintained at the plant site for a period of two years after each such test. Said data shall be available for inspection by Agency representatives during all working hours in accordance with the provisions of the Act.

15. Respondent agrees to pay a civil penalty in the amount of \$2,500.00 with respect to the violation of failure to have a construction permit for the installation of the Brinks Demister.

16. Respondent agrees to obtain all permits required by law with respect to the construction and operation of the Brinks Demister.

17. The Agency withdraws Count I based upon the facts as recited in the background herein; Respondent admits the violation alleged in Count II; the Agency withdraws Count III because the issuance of the permit for the rock-handling facility and the installation of the baghouses, in connection with the application for said permit, have rendered the Count both moot and not readily susceptible of proof; the Agency withdraws Count IV for the reason that the installation of the Brinks Demister has rendered the air pollution problem alleged therein both moot and not readily susceptible of proof."

The Agency believes, and the Board concurs that the public interest and the purposes of the Act will best be served (Stip. #18) by a prompt resolution of this action under the terms and conditions herein proposed.

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

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ORDER

It is the Order of the Pollution Control Board that:

1. Respondent shall pay a penalty of \$2500 for failure to obtain construction and operating permits with respect to the Brinks Demister (Count II), payment to be made within 35 days by certified check or money order to the State of Illinois, Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.
2. Respondent shall apply immediately for all necessary operating permits pertaining to the plant.
3. Counts I, III, and IV are hereby dismissed.
4. Respondent shall comply with paragraphs 12, 13, 14, 15 and 16 of the Stipulation.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 5th day of December, 1974 by a vote of 5-0.

Christan L. Moffett (gn)
Christan L. Moffett, Clerk
Illinois Pollution Control Board