

ILLINOIS POLLUTION CONTROL BOARD  
November 19, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 80-101  
 )  
LIPPOLD & ARNETT READY MIX, )  
a partnership, GERALD LIPPOLD, )  
and RODNEY ARNETT, )  
 )  
Respondents. )

MS. CHRISTINE ZEMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. GERALD LIPPOLD APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by N.F.Werner):

This matter comes before the Board on the May 9, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from March 1, 1978 until May 9, 1980, the Respondents constructed, owned, and operated an asphalt plant at 1302 South Broad Street in Carlinville, Macoupin County, Illinois without first obtaining the requisite Construction Permit from the Agency in violation of Rule 103(a) of Chapter 2: Air Pollution Control Regulations ("Chapter 2") and Section 9(b) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, from March 1, 1978 until May 9, 1980, the Respondents operated their asphalt plant, a new emission source, without first obtaining an Operating Permit from the Agency in violation of Rule 103(b) of Chapter 2 and Section 9(b) of the Act.

Count III alleged that, from March 1, 1978 until May 9, 1980, the Respondents allowed the emission of particulate matter from the asphalt plant in excess of allowable emission standards in violation of Rule 203(a) of Chapter 2 and Section 9(a) of the Act.

Count IV of the Complaint alleged that, from September 28, 1978 until May 9, 1980, the Respondents allowed the discharge of gases from the asphalt plant containing particulate matter in excess of allowable discharge standards in violation of Section 9.1(b) of the Act.

Count V alleged that, from March 1, 1978 until May 9, 1980, the Respondents have periodically allowed the emission of particulate and fugitive matter from their asphalt plant, concrete plant, parking facilities and access roads to enter into the surrounding environment with such emissions being of such quantity, characteristics, and duration as to unreasonably interfere with the enjoyment of life and property in violation of Section 9(a) of the Act.

A hearing was held on September 30, 1981 at which five members of the public testified.\* The parties filed a Statement of Stipulated Settlement on October 5, 1981.

Respondents Gerald Lippold and Rodney Arnett, are currently conducting business as a partnership (i.e., Lippold & Arnett Ready Mix) in Macoupin County, Illinois adjacent to the City of Carlinville. (Stip. 2).

The Agency has alleged that the Respondents' asphalt plant caused large amounts of dust and thick smoke to be admitted during its operation. (Stip. 2). On January 1, 1979, twenty residents of the City of Carlinville, who live near the Respondents' plant, signed a petition complaining about various emissions and submitted the petition to the Agency. (Stip. 2-3).

In response to the citizens' complaints, the Agency conducted numerous inspections of the Respondent's facilities. (Stip. 3). The Agency employees found that the primary source of the most offensive emissions was smoke from the batch plant. To eliminate this problem, the Respondents installed a bag house at a cost of over \$25,000.00 to curtail excessive smoke from the batch plant. (Stip. 3). After the installation of the bag house, no further complaints from nearby residents were received by the Agency. (Stip. 3).

The parties have stipulated that "the only remaining known source of emissions" is the "graveled parking lot which is the subject of the compliance program". (Stip. 3).

The proposed settlement agreement provides that the Respondents shall: (1) water and/or oil the parking lot area whenever dust "reaches obvious levels" or whenever such vehicle dust control operations are requested by the Agency; and (2) pay a stipulated penalty of \$1,000.00 in four equal installments of \$250.00 each. (Stip. 4-5).

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\*The main thrust of the comments by neighboring residents seems to pertain to the unloading of cement trucks during nighttime hours. (R. 16-23). In response to these comments, Mr. Gerald Lippold indicated that he will attempt to remedy this problem (which was not specifically part of the violations alleged in the Complaint). (R. 24).

The Respondents have admitted the allegations that they installed and operated their asphalt batch plant without the necessary permits from the Agency, but have denied the remaining allegations and agreed to the compliance program "for purposes of this settlement only". (Stip. 4).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondents, Lippold & Arnett Ready Mix, a partnership, Gerald Lippold, and Rodney Arnett, have violated Rules 103(a), 103(b), and 203(a) of Chapter 2: Air Pollution Control Regulations and Sections 9(a) and 9(b) of the Act. The Respondents will be ordered to follow the compliance program set forth in the stipulated agreement and will be ordered to pay the stipulated penalty of \$1,000.00 in four (4) equal installments of \$250.00 each.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondents, Lippold & Arnett Ready Mix, a partnership, Gerald Lippold, and Rodney Arnett, have violated Rules 103(a), 103(b), and 203(a) of Chapter 2: Air Pollution Control Regulations and Sections 9(a) and 9(b) of the Illinois Environmental Protection Act.

2. Within 30 days of the date of this Order, the Respondents shall, by certified check or money order payable to the State of Illinois, pay the first installment of \$250.00 on the stipulated penalty of \$1,000.00 (and subsequently make payments of \$250.00 each at 3-month intervals thereafter, until the entire penalty of \$1,000.00 has been paid in full), which is to be sent to:

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

3. The Respondents shall comply with all the terms and conditions of the Statement of Stipulated Settlement filed on October 5, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 19<sup>th</sup> day of November, 1981 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board