

ILLINOIS POLLUTION CONTROL BOARD
November 1, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 71-385
)
LADD CONSTRUCTION COMPANY, INC.)
)
 Respondent.)

George Wolff, Assistant Attorney General for the EPA
Louis J. Perona, Attorney for Respondent

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

Respondent Ladd Construction Company is engaged in the manufacture and sale of asphalt paving near Dixon, Illinois. The Environmental Protection Agency alleges that from July 1, 1970 to the date of the filing of the Complaint on December 17, 1971, Ladd operated its batch asphalt plant in such manner as to cause air pollution in violation of Section 9(a) of the Environmental Protection Act. The Complaint also charges that Respondent failed to submit a Letter of Intent in violation of Rules 2-2.22 and 2-2.23 of the Rules and Regulations Governing the Control of Air Pollution and failed to file an Air Contaminant Emission Reduction Program (ACERP) in violation of Rule 2-2.31(f) and 2-2.4 of the Air Rules, and that Respondent caused excessive emissions of particulates in violation of Rule 3-3.111 of the Air Rules.

On the date scheduled for public hearing, the parties submitted a Stipulation of Facts in lieu of testimony. Respondent admitted that it had owned and operated the batch asphalt plant since it was constructed in 1962; that neither a Letter of Intent nor an ACERP had been submitted as required by the Air Rules; that from July 1, 1970 to November 1, 1971 the plant was operated in such manner as to allow excessive emissions of particulates, i.e. approximately 650 lbs./hr.; that the allowable emissions under Table 1 of Chapter III of the Air Rules were 53 lbs./hr.

It was further stipulated that on June 9, 1971 an Agency investigator inspected the asphalt plant and notified the plant manager that operation of the asphalt plant without control equipment was a violation of the Statute. Ladd Construction was formally notified of the apparent violation by an Agency letter dated

October 5, 1971. Less than one month later on November 1, 1971 Ladd closed the asphalt plant for the season and did not resume operations until it had completed the installation of a multi-cyclone and Venturi scrubber with a combined estimated efficiency of 99.8%. Respondent applied for and was granted permits for the control equipment. Using the control equipment Respondent's emissions would be 15 lbs./hr., well under the 35.8 lbs/hr. allowed by Rule 203(a) of the Air Pollution Control Regulations.

Finally, the Stipulation stated that no towns or subdivisions were located east of the plant "within a sufficient proximity to be significantly affected by emissions from the plant". Prevailing winds in the area are from the west. Some isolated farm houses are east of the plant, but the nearest is over 2500 ft. away. Photographs taken by the Lee County Health Department in November 1970 and by the Agency in June 1971 show dense gray emissions coming from the short stack which serves the rotary kiln drier. These emissions darkened the sky for a considerable distance from the point of emission.

Since the plant was located in a sparsely populated area and there was no evidence of the effect of these emissions on people we must find that the Section 9(a) violation was not proved. No evidence was submitted that the emissions caused a nuisance. Therefore, that part of the Complaint which charges a violation of Section 9(a) of the Environmental Protection Act is dismissed. All other violations which have been charged by the Agency have been admitted by Ladd Construction Company and we find Respondent guilty on the remaining charges. Since Respondent has installed control equipment capable of assuring operations within the law, it will not now be necessary to submit a Letter of Intent and an ACERP. Only the issue of penalty remains. The Stipulation made no reference to monetary penalty but in view of the heaviness of the emissions for a period in excess of one year we believe one should be imposed. There is no evidence that the emissions did or did not cause actual damage in the surrounding area and for that reason a routine penalty in the amount of \$1,000 will be assessed.

ORDER

It is the order of the Board that Ladd Construction Company, Inc. pay a penalty of \$1,000 by December 15, 1973 for 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 Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 15th day of November, 1973 by a vote of 5 to 0.

Christan L. Moffett