

ILLINOIS POLLUTION CONTROL BOARD
December 4, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-187
)
 GRAY QUARRIES, INC.,)
)
 Respondent.)

Mr. Howard V. Thomas, Assistant Attorney General, appeared for the Complainant;
Mr. Charles T. Bell and Mr. Stanley L. Tucker, Attorneys, appeared for the Respondent.

OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin):

The Complaint in this matter was filed by the Attorney General for the Environmental Protection Agency (Agency) on May 1, 1975, charging Respondent Gray Quarries, Inc., (Gray), with violation of § 9(b) of the Environmental Protection Act (Act) and Rule 103(b)(2) of Chapter 2: Air Pollution, of the Pollution Control Board (Board) Rules and Regulations. Ill. Rev. Stat. Ch. 111-1/2, § 9(b)(1975); PCB Regs., Ch. 2, Rule 103(b)(2). Following discovery and various Admissions of Fact by Gray, a hearing was held in Carthage, Hancock County, on August 15, 1975.

Gray owns and operates a quarrying facility near Hamilton, in Hancock County at which it carries on, among other processes, a rock crushing process utilizing various pieces of equipment. The Complaint alleges that Gray operated the facility and its attendant equipment without an operating permit from the Agency, as required by §9(b) of the Act and Rule 103(b)(2). The operating permit requirement became effective against Gray on June 1, 1973.

Gray admitted violation of the Act and our Rules, and concentrated at hearing on the introduction of testimony and exhibits for purposes of mitigation. The important facts introduced there, (and un rebutted), are as follows:

1. Gray now has the required Operating Permit from the Agency.

2. Gray has obtained construction permits for and constructed a dust suppression system for its quarrying and processing equipment.

3. Gray's rock crushing equipment is located inside of its quarry pit, which is unusual for such quarries, limiting any emissions of dust from the quarry.

4. According to the only witness testifying on the subject, (Respondent's Vice President), no dust emissions from the quarry pit have ever been seen, and no collection of dust has ever been observed on any nearby property.

In light of Gray's admission of violation, we need not examine the factors listed in § 33(c) of the Act in reaching our finding of violation.

We do not feel that any penalty or other remedy is warranted. Respondent's violation of the permit requirement was purely technical, and has since been remedied. The uncontroverted evidence presented by Respondent indicates that the quarry in question has not been a significant source of air pollution, and indicates that Respondent has acted in good faith to properly control any emissions which may have resulted from its operations. Since Respondent has remedied its violation, no cease and desist order is warranted here. The Board may not impose a penalty for purely punitive purposes; where, as is the case here, the imposition of a penalty would not aid in achieving the purposes of the Act and our Rules and Regulations, no such penalty will be imposed. Southern Illinois Asphalt Co. v. Pollution Control Board, 60 Ill.2d 204, 326 N.E.2d 406 (1975).

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Respondent is found to have violated § 9(b) of the Environmental Protection Act and Rule 103(b)(2) of Chapter 2: Air Pollution, of the Pollution Control Board Rules and Regulations.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4th day of December, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board