

ILLINOIS POLLUTION CONTROL BOARD
June 20, 1991

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-18
) (Enforcement)
ROBERT A. PROPHETER d/b/a)
BOB PROPHETER CONSTRUCTION)
COMPANY,)
)
Respondent.)

JAMES ARCHIER, SENIOR ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT THE PEOPLE OF THE STATE OF ILLINOIS.

LOUIS F. PIGNATELLI, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon a complaint filed on January 25, 1990, by Roland W. Burriss, Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against respondent, Robert A. Propheter d/b/a Bob Propheter Construction Company (Propheter). The complaint alleges that Propheter operated its asphalt batch plant located in Utica, LaSalle County, Illinois, in violation of Section 9(b) of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009 (b)) and Sections 201.143 and 201.161 of the Board's air regulations. (35 Ill. Adm. Code 201.143 and 201.161.)

Hearing was held on this matter on July 30, 1990 in Chicago, Illinois. At the hearing, the Attorney General read into the record the terms of a stipulated agreement. This "Stipulation of Facts and Proposed Settlement" was subsequently signed by the parties and sets forth the full statement of all material facts pertaining to the nature, operations and circumstances surrounding the claimed violations. Propheter admits to past violations of the Act and Board regulations and agrees to pay a penalty of three thousand five hundred dollars (\$3,500) into the Environmental Protection Trust Fund.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Boards's air pollution regulations.

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

ORDER

- 1.) The Board hereby accepts the Stipulation of Facts and Proposed Settlement executed by the complainant and Robert A. Propheter d/b/a Bob Propheter Construction Company concerning violations of Section 9(b) of the Act and 35 Ill. Adm. Code 201.143 and 201.161. The Stipulation of Facts and Proposed Settlement are incorporated by reference as though fully set forth herein.
- 2.) Propheter shall pay the sum of three thousand five hundred dollars (\$3,500) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL. 62794-9276

Propheter shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act (Ill. Rev. Stat. 1989, ch. 120, par. 10-1003) as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

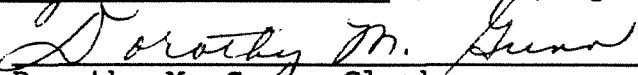
Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, par. 1041) provides for appeal of Final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Jacob D. Dumelle concurs.

J. Theodore Meyer dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 20th day of June, 1991, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board