

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1977

MONSANTO COMPANY,)
)
) Petitioner,)
)
) v.) PCB 75-330
) 75-331
) ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

- and -

ENVIRONMENTAL PROTECTION AGENCY,)
)
) Complainant,)
)
) v.) PCB 75-421
) CONSOLIDATED
) MONSANTO COMPANY,)
)
) Respondent.)

PATRICK J. CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF RESPONDENT/COMPLAINANT;
PHOCION S. PARK, APPEARED ON BEHALF OF PETITIONER/RESPONDENT.

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

This matter is a consolidation of three cases brought before the Board by the parties herein. The three cases consist of PCB 75-330, a Petition by Monsanto Company (Monsanto) for variance, PCB 75-331, a Permit Appeal brought by Monsanto, and PCB 75-421, a Complaint brought against Monsanto by the Illinois Environmental Protection Agency (Agency). A hearing was held in this matter on September 26, 1977 at which a Stipulation of Facts and Proposal for Settlement were presented to the Board by the parties. No citizens were present at the hearing, and no testimony was presented.

The facility involved herein is a chemical plant owned by Monsanto located in the Village of Sauget in St. Louis, Missouri, Illinois, which falls within the St. Louis (Illinois) Metropolitan Area. The plant employs approximately 1200 people and has an annual payroll of some \$26,000,000. Monsanto produces process steam and power with four boilers, four of which are coal-fired and are the specific subject of these proceedings. The coal-fired boilers (boilers) have been operating under Agency permits which generally expired in 1975 and which called for the use of low sulfur coal by May 30, 1975 in their project completion schedules.

When Monsanto filed new permit applications for the boilers, the Agency refused to issue the new permits based on the fact that Monsanto had failed to implement the compliance programs and project completion schedules which had called for the use of low sulfur coal by May 30, 1975. At that time Monsanto filed the variance petition, PCB 75-330, for the boilers for variance from the sulfur dioxide standard of Rule 204(c)(1)(A) of the Illinois Pollution Control Board's Air Pollution Control Regulations (Regulations) and from the visual emission and particulate standards of Rules 202(b) and 203(g) of the Regulations. At the same time Monsanto filed a Permit Appeal, PCB 75-331, challenging the Agency's refusal to renew the operating permits for the boilers. Subsequently the Agency brought an enforcement action against Monsanto in PCB 75-421 alleging violation of Section 9(b) of the Illinois Environmental Protection Act (Act) and Rule 103(b) of the Regulations. In addition the Agency alleged Monsanto had failed to implement compliance plans and project completion schedules calling for the use of low sulfur coal by May 30, 1975, in violation of Rule 104(e) of the Regulations.

It is stipulated that Monsanto has burned low sulfur coal in the boilers since January of 1976. In addition, the Agency has issued operating permits for the three smaller boilers, apparently in response to the use of the low sulfur coal. In late 1976 Monsanto applied for permits to construct electrostatic precipitators for the boilers and the Agency subsequently reviewed and approved the construction plans and issued construction permits for the precipitators (Exhibits A, B, C, and D). At the present time the electrostatic precipitators have been purchased and many of the parts are on site (Exhibit E). Further evidence of Monsanto's intent to come into compliance is contained in Exhibits (F) and (G), construction bids and a resolution of the Board of Directors authorizing the installation.

The parties herein propose to settle this matter in a manner which will improve the company's emission control facilities and the quality of the ambient air in the vicinity of the company's facilities, without the expenditure of time and expense in litigating the various issues raised in these consolidated cases. Monsanto proposes to implement an air pollution control program at a cost of \$7,000,000 consisting of the use of low sulfur coal sufficient to attain the emission level of Rule 204(c)(1)(A) of the Regulations and construction of the electrostatic precipitators as noted above. In addition Monsanto agrees to prepare quarterly progress reports concerning the installation of the precipitators and to voluntarily contribute \$5,000 to the State of Illinois within 30 days of the receipt of a Board Order adopting the proposed stipulation.

The only problem with the Stipulation insofar as the Board is concerned is a promise by the Agency to promptly process such applications and "not to deny the permits on the basis of particulate emissions provided that the terms and the conditions of this Stipulation and of the construction permits...are complied with". This would at first appear to be a guarantee that the Agency will issue the permits notwithstanding the final particulate emissions that are achieved. However, upon review of the terms of the construction permits, the Board finds that one of the conditions contained in the construction permits is that the permittee (Monsanto) demonstrate compliance with Pollution Control Board Regulations and the Act before the Agency is bound to issue an operating permit for the equipment. With the explicit understanding that Monsanto must comply with Board Regulations and the Act before the Agency is bound to issue the operating permit, the Board finds the Stipulation of Facts and Proposed Settlement to be a suitable resolution of the three cases herein.

In consideration of the settlement of the three cases, Monsanto agrees to dismiss the pending variance case, PCB 75-330, and the pending Permit Denial Appeal, PCB 75-331, with prejudice and the Agency agrees to dismiss the pending enforcement case, PCB 75-421, as amended, with prejudice. The Board hereby accepts the Proposed Stipulation and will order its execution as well as the dismissal of the three cases herein.

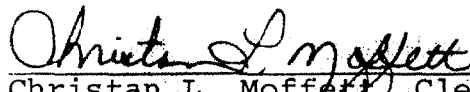
This Opinion and Order constitutes the finding of facts and conclusions of law of the Board in this matter.

ORDER

It is the Order of the Pollution Control Board that:

1. The parties herein execute the Proposal for Settlement filed before the Board September 29, 1977 which Proposal for Settlement is incorporated by reference as if fully set forth herein, including but not limited to:
 - A. Completion of construction and subsequent testing of the electrostatic precipitators,
 - B. Application for operating permits for each of the boilers,
 - C. Preparation of quarterly progress reports concerning the installation of the electrostatic precipitators in conformance with special condition 2(a) of the construction permits,
 - D. Contribution by Monsanto of \$5,000 to the State of Illinois within 30 days of the receipt of this Order, said contribution to be delivered to the Division of Fiscal Services of the Agency.
2. PCB 75-421 is hereby dismissed with prejudice.
3. PCB 75-330 is hereby dismissed with prejudice.
4. PCB 75-331 is hereby dismissed with prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of December, 1977 by a vote of 5-0.


Christan L. Moffett Clerk
Illinois Pollution Control Board