

ILLINOIS POLLUTION CONTROL BOARD
July 10, 1975

ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
 v.) PCB 75-8
)
 SWIFT AND COMPANY,)
)
 Respondent.)

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

This case involves a complaint, filed January 7, 1975, alleging that Respondent, Swift and Company, constructed and operated air pollution control equipment without permits from the Environmental Protection Agency (Agency), in violation of Rules 103(a)(1) and 103(b)(1) of Chapter 2 (Air Pollution Regulations) and Section 9(b) of the Environmental Protection Act.

Swift, through its Edible Oil Division, owns and operates a margarine, shortening and related products manufacturing facility located on U.S. Route 50, Bradley, Kankakee County, Illinois. This facility includes twenty-four edible oil storage tanks, three of which utilize activated carbon canisters which are the subject of this complaint.

A public hearing was held on March 17, 1975, at which a Stipulation And Proposal For Settlement was entered. The Stipulation indicated that Swift constructed and operated the canisters on or after November 7, 1973 without Agency permits, in violation of the Act and regulations as alleged in the complaint. The parties agreed that Swift pay a penalty of \$1,000 for these violations and that Swift should promptly proceed to take all actions to obtain the required permits.

We note that these canisters were installed as a result of our previous Order in EPA v. Swift and Company, PCB 72-125, 6 PCB 381 (December 5, 1972) which required Swift to install such canisters on all twenty-four edible oil storage tanks, subject to the Agency permit procedures, in order to abate

an odor nuisance. At the hearing in the present case Swift's attorney pointed out that the Attorney General had filed a complaint in the Circuit Court of the 12th Judicial Circuit requesting injunctive relief and penalties, alleging that Swift had failed to comply with our previous Order. It was further pointed out that a settlement had been reached in that action whereby Swift agreed to pay a penalty of \$5,000 and to install the remainder of the canisters as required. We regret that it was necessary to turn to the courts to enforce our previous Order. Hopefully, the settlement reached in the Circuit Court will speed the completion of the canister installation program so as to finally abate the odor nuisance.

On the basis of the Stipulation, we find that Swift did violate the Act and regulations as alleged. In consideration of Section 33 of the Environmental Protection Act we find there are insufficient facts to determine the degree of injury, the social and economic value, or the suitability of the pollution source to the area in which it is located. We further find that the stipulated settlement of \$1,000 constitutes a reasonable penalty for these violations.

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

ORDER

1. Respondent, Swift and Company, shall pay a penalty of \$1,000 for the violations of Section 9(b) of the Environmental Protection Act and Rules 103(a)(1) and 103(b)(1) of the Air Pollution Regulations found herein. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

2. Swift and Company shall promptly proceed to take all reasonable and necessary actions and to make all reasonable and necessary submissions to the Agency to obtain the lawfully required permits for the use of its activated carbon canisters at its Bradley plant.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 10th day of July, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk