

ILLINOIS POLLUTION CONTROL BOARD
February 20, 1997

DONETTA GOTT, LYNDELL CHAPLIN,)
GARY WELLS, ERNEST L. ELLISON and)
MAXINE ELLISON,)
)
Complainants,)
)
v.)
)
M'ORR PORK, INC., an Illinois Corporation,)
)
Respondent.)

PCB 96-68
(Enforcement - Citizens - Air)

DISSENTING OPINION (by R.C. Flemal):

I respectively dissent from today's majority opinion and order in this matter.

The majority finds that M'Orr Pork has allowed emissions of odors that resulted "in unreasonable interference with the enjoyment of life and property" and therefore caused air pollution in violation of Section 9(a) of the Act and 35 Ill. Adm. Code 501.402(c)(3). The majority rightly dismisses the other complaints as unfounded.

I believe that the majority errors in not also dismissing the "unreasonable interference" complaint. There is abundant evidence in the record that people situated similarly to the complainants experience none of the odor-related interferences alleged by the complainants. Allegations of unreasonable interference should not be unquestioningly accepted in the face of such evidence.

For this reason, I dissent.

Ronald C. Flemal
Board Member

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above dissenting opinion was submitted on the _____ day of _____, 1997.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

