

ILLINOIS POLLUTION CONTROL BOARD
June 22, 1978

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 75-400
)	
ABBOTT LABORATORIES, an)	
Illinois corporation,)	
)	
Respondent.)	

MS. SUSAN SHUMWAY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MARTIN, CRAIG, CHESTER, & SONNENSCHNEIN (MR. RICHARD J. KISSEL, OF COUNSEL) AND ABBOTT LABORATORIES, OFFICE OF GENERAL COUNSEL (MR. RONALD L. SCHERUBEL, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the October 14, 1975 Complaint brought by the Illinois Environmental Protection Agency charging Abbott Laboratories with violation of Rule 103(b)(2), Rule 105(a), and Rule 202(b) of Chapter 2: Air Pollution Control Regulations and Section 9(b) of the Act. The Agency filed an Amended Complaint on July 27, 1977 and a hearing was held on March 30, 1978. The parties filed a Stipulation and Proposal for Settlement on April 26, 1978.

Abbott Laboratories owns and operates a plant in North Chicago, Illinois which manufactures pharmaceuticals and health care products. The facility is bounded on the east by the Chicago & Northwestern Railroad right of way, and adjoins residential and commercial property to the south and west. Industrial property is located to the north of the plant. Abbott Laboratories is the largest employer in Lake County and employs approximately 5,200 persons in the operation of its facility. Abbott normally operates three shifts per day, seven days per week, fifty-two weeks per year.

The Company has four coal-fired, spreader-stoker boilers (referred to as Boilers 5, 6, 7, and 8) which are used to produce steam for Abbott's processes; and two coal-fired, spreader-stoker

boilers (referred to as Boilers 3 and 4) which were used for the purpose of incinerating waste sludge until September 26, 1975, and are now used for standby purposes.

Boilers 3 and 4, which are substantially similar boilers, are controlled by a second-hand electrostatic precipitator and are ducted to and served by a common stack. Boilers 5 and 6, which are basically identical boilers, are controlled by multi-cellular straight through cyclones, and are served by separate stacks. Boilers 7 and 8, which are essentially alike, are controlled with standard multiclones, and are served by separate stacks. It is stipulated by the parties that Boilers 3, 4, 5, 6, 7, and 8 and the control equipment attendant thereto were installed at the plant prior to April 14, 1972 (the effective date of the Board's Air Pollution Control Regulations) and that the boilers and control equipment constitute "existing emission sources" within the definition of Rule 201 of the Board's Air Pollution Regulations.

The Agency's original Complaint alleged that these boilers were improperly operated in violation of the Board's Air Pollution Control Regulations. After numerous preliminary motions and pre-hearing discovery motions were filed, the Agency filed an Amended Complaint on July 27, 1977. Count I of the Amended Complaint alleged that beginning on June 1, 1975, and continuing through the filing of the Amended Complaint, Abbott operated Boilers 5, 6, 7, and 8 without first obtaining an operating permit from the Agency, and that since September 1, 1975, the Company operated Boilers 3 and 4 without an Agency operating permit. Count II of the Amended Complaint alleged that on January 3, 1975, January 7, 1975, and February 10, 1975, the stack which serves Boilers 3 and 4 emitted smoke of a density of Number 2 or darker on the Ringlemann chart for periods aggregating more than six minutes in a sixty minute period. Count III alleged that on January 3, 1975, January 7, 1975, and February 10, 1975, Abbott caused or allowed the operation of Boilers 3 and 4 during a malfunction or breakdown of the boilers or related air pollution control equipment, in violation of a special condition of its operating permit issued on November 1, 1973.

It is stipulated by the parties that the smoke emissions referred to in Count II of the Amended Complaint were caused primarily by one or more specified factors (i.e., the operation of Boilers 3 and 4 during breakdown or malfunction, the use of poor quality coal purchased on the open market, and/or the incineration of sludge). Abbott maintains that the poor quality coal that was purchased on the open market was the only coal available to it at the time, at a reasonable cost.

The parties also stipulate that since September 27, 1975, Abbott has not used Boilers 3 and 4 to incinerate sludge. The Company has disposed of the sludge by sending it to a farm which has an Agency permit to dispose of sludge. Boilers 3 and 4 are now kept on a stand-by basis although the new permits allow limited incineration of sludge.

The Stipulation includes a detailed discussion of the permit history of boilers 3, 4, 5, 6, 7, and 8. Each boiler originally had an operating permit issued during 1973, but the Agency denied Abbott's renewal applications in 1975 for various reasons. Currently, all the Agency's objections to renewal of operating permits for the boilers have been met, and the Agency has issued permits for all of the Company's boilers.

Abbott Laboratories now has opacity monitors installed at its facility to monitor the combustion conditions of its boilers. The opacity meters have continuous recording devices. The Company and the Agency agreed, after inspection by qualified smoke readers, that the readings of the opacity meters can be correlated to the opacity of the stack emissions utilizing a specified method of calculation which is acceptable to the Agency.

Accordingly, the proposed settlement agreement provides that the Company will: (1) maintain and operate the opacity monitors currently in place (with all records relating to these monitors available for Agency inspection); (2) report to the Agency whenever any of its opacity meters indicate, using the specified method for calculation set forth in Attachment "A" of the Stipulation, that the opacity of any emissions from any boilers exceeds 30%; (3) submit a report to the Agency within seven days detailing the duration and causes of such opacity readings (indicating all actions taken to reduce the opacity of the emissions); and (4) pay a stipulated penalty of \$5,000.00 .

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974).

Accordingly, the Board accepts the Stipulation and Proposal for Settlement and imposes the stipulated penalty of \$5,000.00 .

This Opinion and Order constitute the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that:

1. Abbott Laboratories has violated Rule 103(b)(2), Rule 105(a), and Rule 202(b) of Chapter 2: Air Pollution Control Regulations and Section 9(b) of the Illinois Environmental Protection Act.

2. Within 35 days of the date of this Order, Abbott Laboratories shall pay the stipulated penalty of \$5,000.00, payment to be made by certified check or money order to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

3. Abbott Laboratories shall comply with all terms and conditions of the Stipulation and Proposal for Settlement filed April 26, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22nd day of June, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett Clerk
Illinois Pollution Control Board