

ILLINOIS POLLUTION CONTROL BOARD
January 8 , 1976

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 75-79
)
 AURORA REFINING COMPANY, an)
 Illinois corporation,)
)
 Respondent.)

Jeffrey S. Herndon, Assistant Attorney General, Attorney for
Complainant
Bruce A. Brown, Goldsmith, Dyer, Thelin, Schiller & Dickson,
Attorney for Respondent

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

This case arises out of a four count Complaint, filed by the People of the State of Illinois (People) on February 19, 1975 alleging that Respondent, Aurora Refining Company, an Illinois corporation (Aurora) owned and operated certain facilities located in or near 533 1/2 Rathbone Street, Aurora, Kane County, Illinois in violation of the Environmental Protection Act (Act) and the Air Pollution Regulations (Chapter 2) as follows:

Count I alleged that Aurora operated a rotary furnace, a reverberatory furnace and a baghouse without first obtaining operating permits from the Environmental Protection Agency (Agency) in violation of Rule 103(b) of Chapter 2 and Section 9(b) of the Act from on or about May 1, 1973 until filing of the Complaint; and,

Count II alleged that Aurora caused or allowed construction of new air pollution control equipment, specifically, two baghouses, without first obtaining a construction permit from the Agency in violation of Rule 103(a) of Chapter 2 and Section 9(b) of the Act from on or after January 1, 1973 until filing of the Complaint; and,

Count III alleged that Aurora operated its reverberatory furnace and rotary furnace to cause or allow the emission of particulate matter into the

atmosphere in amounts which violated the limitations imposed by Rule 203(a) of Chapter 2 from on or about January 16, 1975 until filing of the Complaint; and,

Count IV alleged that Aurora caused or allowed the emission of contaminants as defined in Section 3(d) of the Act in violation of Section 9(a) of the Act from on or about January 16, 1975 until filing of the Complaint.

Two hearings were held in this matter; the first on June 30, 1975 and the second on September 29, 1975. At the first hearing, a Stipulation covering Counts I, II and III was entered into the record; a Stipulation relative to Count IV was entered into the record at the September 29, 1975 hearing. In the Stipulation entered on June 30, 1975 the parties agreed that Count III of the Complaint be dismissed without prejudice to Complainant. Rule 333 of our Procedural Rules provides that no case pending before the Board shall be disposed of or modified without an order of the Board and the agreement of the parties hereto to dismiss Count III of the Complaint is a nullity.

The parties stipulated that at the request of the Illinois Attorney General's Office, Aurora performed several tests to determine the existence of excessive particulate matter, which tests showed no violation of any regulation. Based upon the foregoing, Count III will be dismissed.

The Stipulation contains the following information concerning the facility which is operated by Aurora at 533 1/2 Rathbone Street, Aurora, Kane County, Illinois; the installation includes a rotary and a reverberatory furnace, each of which is equipped with a baghouse to control the emission of particulates from the furnace. In contemplation of purchase of an additional furnace, a third baghouse has been installed.

Aurora admits that beginning on or about August 18, 1974 through March 5, 1975, Aurora constructed two new baghouses without first obtaining construction permits from the Agency in violation of Rule 103(a) of Chapter 2 and that from August 18, 1974 until May 28, 1975, Aurora operated its facility without first obtaining an operating permit issued by the Agency in violation of Rule 103(b) of Chapter 2.

The parties stipulate that Aurora has obtained all required permits from the Agency (Stip. 6/30 p. 2); that Aurora has fully cooperated in reaching a resolution of the instant action (Stip. 6/30 p. 2) (Stip. 9/29 p. 2); that Aurora has made substantial expenditures to eliminate an inherited problem, that Aurora has made substantial efforts to reduce or eliminate air

pollution problems; that Aurora has sustained an after-tax loss for the past four years in part due to expenditures for pollution control equipment (Stip. 6/30 p. 2) (Stip. 9/29 p. 3); and, that Aurora has agreed to install certain other control equipment in accordance with an Agreement entered into by and between the parties (Stip. 9/29 p. 3).

The parties recommend that because of the good faith efforts to comply and the present financial condition of Aurora that no penalty be assessed for the admitted violations.

On the basis of the foregoing and the Stipulations of June 30, 1975 and September 29, 1975, which constitute the entire record in this matter, we find that Aurora did violate the Act and Regulations as charged in Counts I, II and IV of the Complaint by constructing and/or operating of air pollution control equipment in violation of Rules 103(a) and 103(b) of the Air Pollution Regulations and Section 9(a) of the Environmental Protection Act and by causing or threatening or allowing the emission of contaminants into the environment of the State of Illinois in violation of Section 9(a) of the Act. No penalty is assessed for these violations.

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

ORDER

1. Respondent, Aurora Refining Company, is found to have constructed and operated air pollution control equipment without first obtaining permits from the Agency in violation of Rules 103(a) and 103(b) of the Air Pollution Regulations (Chapter 2) and Section 9(a) of the Environmental Protection Act and caused or threatened or allowed the emission of contaminants into the environment of the State of Illinois in violation of Section 9(a) of the Environmental Protection Act from January 16, 1975 to March 5, 1975.

2. Respondent, Aurora Refining Company, shall comply with and do all things agreed in terms 3 through 9 of the Agreement as set forth in the Stipulation of September 29, 1975 by and between Respondent Aurora Refining Company and the Complainant People of the State of Illinois which is hereby incorporated into this Order by reference as if fully set forth herein.

3. Count III of the Complaint is dismissed without prejudice.

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 8th day of January, 1976 by a vote of 4-0.

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