

ILLINOIS POLLUTION CONTROL BOARD  
December 5, 1972

ENVIRONMENTAL PROTECTION AGENCY )  
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 )  
 v. ) PCB 72-125  
 )  
 )  
 SWIFT AND COMPANY )  
 )

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

On March 29, 1972 the Environmental Protection Agency ("Agency") filed an enforcement action against Swift and Company ("Swift") alleging the discharge of odors and other contaminants from a Swift plant processing edible oils near Bradley, Illinois in Kankakee County so as to cause or tend to cause air pollution as defined in Sections 3(b) and 3(d) of the Environmental Protection Act.

On October 3, 1972 a hearing was held in Kankakee on a stipulation dated September 29, 1972. No member of the public appeared or spoke on the stipulation. Counsel for Swift stated that persons who had complained in the past had been notified by telephone of the hearing by an Agency representative (R.12).

The Swift plant is on 74 acres of land near Bradley. Coconut oil, soybean oil and other edible oils are stored and processed in order to make margarine, shortening and related products. No rendering is done at the Swift plant. The plant has 24 tanks which store the edible oils and at times the oil is heated to as much as 140<sup>0</sup>F to make it pumpable. The 24 tanks are vented to the atmosphere.

The Agency's only technical witness was Dr. Charles A. Snell who inspected the Swift plant on September 20, 1972. The stipulation states

14. That it is Dr. Snell's opinion that under the conditions under which the plant is operated it is possible that odors are emitted which are caused by the venting of the storage tanks into the atmosphere.

15. That it is Dr. Snell's opinion that said odor problem would be more evident at such times as when the tanks are being filled from railroad cars and tank trucks due to the displacement of air during this process.

The stipulation also states

16. That the Environmental Protection Agency and Swift & Company agree that an Order may be entered by the Pollution Control Board directing Swift & Company to install and have in operation within ninety (90) days activated carbon canisters on each of said storage tanks and to make application for an installation permit for such equipment from the Environmental Protection Agency, which installation both parties believe will correct and eliminate said odor problem.

Thus we have a situation in which there is a strong presumption of odors having been generated from this installation. A control program is agreed to and no public witness has testified as to the severity of the presumed nuisance. The question of penalties, if any, has been left by the parties entirely to the Board (R. 4).

In view of the lack of evidence as to severity and indeed as to direct cause of the odors we decline to assess penalties. We shall order that the activated carbon canisters be installed as per the stipulation. A letter from Swift dated November 14, 1972 gives an estimate of from \$1,050 to \$1,250 cost per tank for these devices or from \$25,200 to \$30,000 for the entire 24 tanks. That is a substantial sum to expend and we commend Swift and Company for agreeing to this program without the need for protracted litigation.

This opinion constitutes the findings of fact and conclusions of law.

#### ORDER

Within 90 days from the date of this opinion, Swift shall install activated carbon canisters on each of its 24 edible oil storage tanks subject to the permit procedures of the Agency.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 5<sup>th</sup> day of December, 1972 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board

