

ILLINOIS POLLUTION CONTROL BOARD
April 18, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
vs.)
AURORA REFINING COMPANY,) PCB 73-334
Respondent.)

Mr. John E. Slattery, Assistant Attorney General, on behalf of Complainant;
Mr. John O. Heimdal, Attorney, on behalf of Respondent.

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

On August 9, 1973, the Environmental Protection Agency filed Complaint against Aurora Refining Company, the owner and operator of certain facilities for the recovery of aluminum from dross including, but not limited to, two reverberatory furnaces, one rotary furnace and one hearth furnace located in Aurora, Illinois. A public hearing was held in this matter on October 29, 1973.

The Complaint consists of three Counts. Count II alleges that Respondent installed a scrubber system without a permit granted by the Agency, in violation of Section 9(b) of the Act and Rule 3-2.110 of the Rules and Regulations Governing the Control of Air Pollution. Count III alleges that Respondent has operated its facility without obtaining an operating permit from the Agency, in violation of Section 9(b) of the Act and Rule 103 of Chapter 2, Part I of the Pollution Control Board Regulations adopted pursuant to Section 10 of the Act. On October 10, 1973 Respondent filed its Answer, admitting therein all of the allegations contained in Counts II and III.

Count I alleges that on or before July 1, 1970 and continuing for each and every day of operation until the date of the Complaint, Respondent has operated its facilities as to cause or allow the discharge of metallic oxide and chloride particulates in excess of the limits contained in Rule 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution and in violation of Section 9(a) of the Act.

The Record in this cause is replete with testimonial evidence tending to show serious and frequent 9(a) violations. The Agency offered the testimony of five citizen witnesses who reside or are employed in the vicinity of Respondent's facility.

Mrs. Josephine Oldani resides approximately 1-1/2 blocks south of Respondent's facility. She has lived there all her life (R. 9). Mrs. Oldani testified to "terrific smoke" and unbearable, sickening odors emanating from Respondent's facility (R. 10). Mrs. Oldani was positive that the smoke and odors were coming from Respondent's facility (R. 11). In the summertime, the witness stays in her home because she can't stand all that stuff" (R. 12).

Mr. Oldani testified that he installed an air conditioner because of the smoke (R. 22) which he described "like a fog" (R. 21). Mr. Oldani stated that the smoke and odors bother him "about every other night" and that he could definitely distinguish the odor from Respondent's facility, vis-a-vis odors emanating from other plants in the area (R. 23).

Mrs. Louis Bolden resides approximately four doors from Respondent's facility and testified to "a lot of smoke and odor coming from the Aurora Refining plant" (R. 30). Mrs. Bolden stated that the emissions cause a "kind of burning" in her eyes (R. 30) and that she is bothered every day (R. 33). The witness also testified that her son's asthma condition is severely aggravated by Respondent's emissions. (R. 37).

Mrs. Ann Larsen resides approximately one block east of Respondent's facility (R. 40). Mrs. Larson testified that the odor was "terrible", "ungodly" and that she had to shut her doors (R. 43). She stated that the "smoke is so bad that I have a burning sensation in my throat" (R. 44). The problem occurs every day and Mrs. Larson is frequently nauseated by it (R. 46). The witness stated that the offensive emissions are definitely coming from Respondent's facility (R. 49).

Mr. James Phillips, a science teacher, testified to "very obnoxious" odors and "smog" (R. 54) emitted from Respondent's facility on an almost daily basis (R. 58). Mr. Phillips stated that when he first noticed the condition, he "thought the plant was on fire" and stopped his car to investigate (R. 56).

The citizen witnesses testified that the offensive emissions have persisted for from one to two years and that they had complained to various pollution control bodies.

Mr. Dick Young, Kane County Environmental Director, testified that he has inspected Respondent's facility on numerous occasions over a period of approximately eighteen months in response to citizen complaints (R. 61). Mr. Young stated Respondent's facility was "smoking and blowing offensively" (R. 61). Mr. Young testified that the smoke was coming not only from the stack, but also through cracks in Respondent's building (R. 62).

Mr. John Philipchuck, Zoning Administrator for the City of Aurora, testified that Respondent's facility is in a "very dilapidated condition" (R. 65) with holes in the roof. Mr. Philipchuck stated that the "smoke was like a haze" and that the odor stung his nose (R. 67).

Mr. James Piney, Chief Fire Marshall for the City of Aurora, testified that he had visited Respondent's facility on numerous occasions over the past two years in response to citizen complaints (R. 70). Mr. Piney stated that in September of 1973 "it was so bad" that he ordered Respondent to "fix it immediately or turn the unit off" (R. 75, 76).

Mr. William Bonkosky, an Agency Surveillance Engineer, testified that Respondent's building is in "very poor condition" with "holes in the roof" (R. 80). Mr. Bonkosky stated that Respondent's rotary furnace appeared to be the "barrel from a mobile cement mixer removed and lined with refractory" (R. 93). This furnace is controlled by a packed tower wet scrubber (R. 94). However, Mr. Bonkosky testified that "there is no packing in the scrubber, which would raise some serious doubts as to the efficiency of the device" (R. 94). The witness stated that the scrubber could not have an efficiency guster than 22 per cent (R. 124). Mr. Bonkosky calculated that the emissions from the rotary furnace would approximate 21 pounds per hour and that the allowable limit is 2.84 pounds per hour (R. 126).

Mr. Bonkosky stated that he observed considerable visible emissions leaving the baghouse from Respondent's reverbatory furnace (R. 129). He testified that the baghouse equipment was second-hand and that bags must have broken (R. 129).

Mr. Joseph L. Hoffman, an Agency Environmental Protection Engineer, testified regarding Respondent's facility as follows:

"Basically that it was a very unorthodox installation, and if you will excuse the expression, a Rube Goldberg affair. It was a collection of various pieces of equipment that had just been assimilated and put in series, and -- one particular point I would like to mention is that the stack height, if you will, was about a minus four feet. That is, there was a pit in the ground, and that is where the exhaust from this apparatus went to the atmosphere." (R. 137).

Mr. Hoffman testified that on one of his inspection visits the baghouse from the reverbatory furnace was not working (R. 141) and that the emissions from the rotary furnace was virtually uncontrolled (R. 149).

Mr. Lars Molander was Respondent's only witness. Mr. Molander is a professional chemical engineer working in the field of pollution control and process control (R. 151). In March of 1972, Mr. Molander was employed by Respondent as a consultant (R. 153). On January 17, 1973, Mr. Molander purchased seventy per cent of the stock of respondent corporation (R. 159). Mr. Molander is aware of the many, serious problems in Respondent's operation. His testimony was frank and helpful.

Although Mr. Molander disputed Agency calculations regarding emissions from Respondent's facility, he admitted that, even by his calculations, Respondent's emissions are in excess of the allowable standard (R. 173).

We are satisfied from the uncontradicted evidence of Record that Respondent has been, for a period of at least one year, in almost continual violation of Section 9(a) and Rule 3-3.111. Further, we are of the opinion that the violations found are so gross, and the effects of Respondent's emissions are so severe, that an order to cease and desist further violations is necessary.

It is apparent from the Record that assessment of a large penalty and/or an order to cease and desist immediately would force Respondent out of business. We have never taken such action lightly.

Mr. Molander, who is expert in the field of pollution control and aware of the serious defects in Respondent's operation, testified that he could bring Respondent's operation into compliance with an expenditure of approximately \$20,000 (R. 165). Mr. Molander indicated that he felt such financing was available.

"There have been several people who have asked me -- they want to invest in the operation, and I said I can't do it until I see what the Pollution Control Board decides." (R. 167).

We have decided to allow Respondent 120 days within which to bring its operation into compliance. At the end of that period, Respondent shall cease and desist from further violations. If Respondent intends to operate one or more of the subject furnaces, effective control devices must be installed thereon or the existing equipment must be repaired to achieve compliance. During the 120 day period, Respondent shall institute such procedures as will reduce emissions to a minimum, consistent with continued operation and apply for all Agency permits required.

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

IT IS THE ORDER of the Pollution Control Board that Respondent, Aurora Refining Company, shall:

1. Within 120 days from the date of this Order, cease and desist from the violations found herein.
2. During said 120 days, institute such procedures as will reduce emissions to a minimum, consistent with continued operation.
3. Within 30 days of the date of this Order, submit to the Agency its plan for achieving compliance and obtaining financing thereof.
4. Apply for all Agency permits required.

5. Pay \$1,000.00 to the State of Illinois within 35 days from the date of this Order. 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.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this _____ day of _____, 1974 by a vote of _____.
