

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 1975

PEOPLE OF THE STATE OF ILLINOIS,                    )  
  Complainant,    )  
  )    )  
  v.    )                   PCB 74-203  
  )    )  
MARSCO MANUFACTURING COMPANY,                    )  
an Illinois corporation,    )  
  Respondent.    )

Mr. Marvin N. Benn, Assistant Attorney General, appeared for the Complainant;  
Mr. Joel H. Fenchel, Attorney, appeared for the Respondent.

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

This case comes before us on a formal Complaint filed by the Attorney General for the people of the State of Illinois on May 29, 1974. That Complaint alleges violations by Marsco Manufacturing Company (Marsco) of Sections 9(a) and 9(b) of the Environmental Protection Act and Rule 103(b)(2) of Chapter 2: Air Pollution, of the Pollution Control Board (Board) Rules and Regulations. An Amended Complaint filed by the Attorney General on January 16, 1975, adds an allegation of violation of Rule 202(b) of Chapter 2. A hearing was held in Chicago on June 11, 1975, at which time the parties submitted a Stipulation of Fact and Agreed Settlement, which forms the basis for our decision here.

Marsco operates a glass products facility at 2901 South Halsted in Chicago. At that facility Marsco utilizes a patented process to apply protective coating to glass, which retards or prevents heat transfer through the glass. That process enables the glass to meet safety standards for use in oven doors. The glass is also used in other applications, where its heat retardant and other special properties are of use.

After production at the Halsted Street facility commenced in 1973, area residents complained to both Marsco and the Illinois Environmental Protection Agency (Agency). Those complaints concerned odors and particulate emissions originating at the Marsco facility. In response, Marsco installed a "packed tower" wet-scrubber, with other ancillary control devices, at a cost of \$35,863.51. After the control equipment was put into operation, odor complaints still continued.

Marsco thereafter employed consulting engineers, and tried various other control techniques, which also failed.

Finally, on March 27, 1975, Marsco installed spray booths at a cost of over \$13,000, on the advice of new consultants. Tests of that control system showed that particulate emissions rated from the Halsted Street facility amounted to 1.57 pounds per hour, which is allowable under Board regulations for a process weight of 997 lbs. per hour. The new control methods also reduced odor units from approximately 2,000 to an average of 700. (The consulting engineers for Marsco estimated that problems might continue to arise from any discharge in excess of 500 odor units.)

At an inspection by the Attorney General's office on May 29, 1975, the Attorney General suggested further treatment of Respondent's discharge by activated charcoal filters, installed into the air flow immediately prior to discharge into the atmosphere. As a result of the new treatment method, the filters did not clog up with particulates, as was the problem with prior control strategies. The representatives of the Attorney General's office did not notice any odors or visible plume at the discharge stack of the pollution control system.

Commencing in April, 1973, Marsco and the Environmental Protection Agency engaged in a series of permit applications, rejections, and grants. Marsco's initial permit applications, which in some cases resulted in the grant of the permits requested, did not mention the heat barrier process for glass treatment, as described above. Construction and operating permits with respect to the heat barrier process were eventually granted by the Agency on June 25, 1974.

The May 29, 1974 Complaint filed by the Attorney General, in addition to alleging that the heat barrier process failed to have the proper permits (Section 9(b) of the Act and Rule 103(b)(2)), alleged serious odor violations at the Marsco facility (Section 9(a) of the Act). The parties stipulated that at least 22 residents of the area would have testified regarding those odors, and the resultant interference with their enjoyment of life and property. It was further stipulated that these citizens would have testified to burning throats, headaches, nausea, coughing and irritated eyes and noses caused by Marsco's emissions.

The Amended Complaint of January 16, 1975 extended to that date the alleged violations described above, and added an allegation that on October 18, 1973, Marsco violated Rule 202(b) by allowing emissions of smoke and other particulate matter with an opacity of greater than 30%.

Based on the above facts, the parties agreed to the following settlement (Stipulation of Facts and Agreed Settlement, para. 38):

"38. Now, therefore, the parties hereby stipulate and agree that the settlement of the above-entitled enforcement action shall be as follows:

"a. Respondent admits to violating Rule 103(b) (2) of Chapter 2, Part I of the Air Rules and hence admits violating Section 9(b) of the Act in the manner specified above;

"b. Respondent admits to violating Section 9(a) of the Act in the manner specified above;

"c. Respondent admits to violating Rule 202(b) of Chapter 2, Part II of the Air Rules in the manner specified above;

"d. Marsco will use the air pollution control system as shown in the attached Exhibit "E" comprising the wet-wash spray booth and activated charcoal equipment. Marsco agrees to maintain said equipment such that the particulate emission rate will not exceed the allowable emissions specified in the Regulations. Marsco further agrees to provide a valve sampling port downstream of the charcoal filters to allow a set schedule of sampling of the gas stream to determine the effectiveness of the charcoal. Records shall be kept and maintained of this monitoring program. Should any odor be detected by said sampling program, appropriate steps will be taken by Marsco to reduce said odor;

"e. Marsco agrees to allow any duly authorized representative of the Attorney General's Office to inspect the premises and specifically the Heat Barrier air pollution control system and any documents relating thereto;

"f. Marsco will initiate the steps described in paragraph 37, supra; [odor panel tests should complaints persist, with corrective action subject to approval of Attorney General to reduce such odors.]

"g. Marsco must obtain from the Environmental Protection Agency within a reasonable time, an operating permit for the pollution control system as presently used; and

"h. Marsco will pay to the State of Illinois a fine of One Thousand Dollars (\$1,000.00) in full settlement of all enforcement proceedings against Marsco for alleged violations occurring prior to the date hereof. Payment of that penalty shall be upon the immediate receipt of the order, subsequent to the decision of the Pollution Control Board. Respondent shall pay the penalty of \$1,000.00 to the Treasurer, State of Illinois. Said payment should be sent to:

Attorney General's Office  
Environmental Control Division  
188 West Randolph Street, Suite 2315  
Chicago, Illinois 60601"

The Board finds that this agreed settlement is acceptable. While we do have reservations regarding the acceptability of emissions totaling 700 odor units, we feel that Marsco's commitment to take any necessary corrective actions will alleviate this problem. Further, Respondent's good faith has been shown in the past, by both its expenditure of over \$111,000 in its attempts to achieve compliance, and in the continuous nature of those attempts after repeated, expensive failures.

Should the odor problem not be solved, Marsco is committed to whatever further actions are necessary. Were it not for Marsco's prior attempts at compliance, and its commitment to such further attempts as may be necessary, a penalty of \$1,000 would not be acceptable in light of the continuing, long-term nature of the violations admitted by Marsco.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD THAT:


1) Respondent Marsco Manufacturing Company is found to have violated Sections 9(a) and 9(b) of the Environmental Protection Act, and Rule 103(b)(2) of Chapter 2: Air Pollution from March 1, 1973 until May 29, 1974, and Rule 202(b) of Chapter 2: Air Pollution, on October 18, 1973.

2) Respondent Marsco Manufacturing Company shall, for the above violations, pay a penalty of \$1,000 to the Treasurer of the State of Illinois, payment to be made to:

Attorney General's Office  
Environmental Control Division  
188 West Randolph Street, Suite 2315  
Chicago, Illinois 60601

3) Respondent Marsco Manufacturing Company shall in all respects comply with subparagraphs d, e, f and g of the Stipulation of Facts and Agreed Settlement submitted by the parties to this matter on July 11, 1975, as set out in the accompanying Opinion.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 18<sup>th</sup> day of September, 1975 by a vote of 3-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board