

ILLINOIS POLLUTION CONTROL BOARD
March 24, 1983

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-293
)
RALSTON PURINA COMPANY, a)
Missouri corporation,)
)
Respondent.)

MR. WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

YODER, YODER, ZANONI, FLYNN, PRALL & WILLARD (MR. JAMES YODER, OF COUNSEL) AND MR. FRANK HACKMANN OF THE RALSTON PURINA COMPANY APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W.J. Nega)

This matter comes before the Board on the November 28, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from April 1, 1975 until November 28, 1978 (including, but not limited to, April 1, 1975, July 24, 1975, April 5, 1976, July 3, 1976, July 29, 1977, August 4, 1977, and July 11, 1978), the Respondent's soybean processing and animal feed plants located in Bloomington, McLean County, Illinois ("facility") caused noise pollution by emitting sounds beyond the boundaries of the property which unreasonably interfered with the enjoyment of life and activities of nearby residents in violation of Rule 102 of Chapter 8: Noise Regulations ("Chapter 8") and Section 24 of the Illinois Environmental Protection Act ("Act").

Count II alleged that, from April 1, 1975 until November 28, 1978 (including, but not limited to, April 1, 1975, April 5, 1976, July 3, 1976, July 29, 1977, August 4, 1977, and July 11, 1978), the Respondent allowed the emission of sound during daytime hours from a property-line-noise-source located on its Class C land to receiving Class A land (i.e., nearby residential property) which exceeded allowable octave band sound pressure levels in violation of Rule 202 of Chapter 8 and Section 24 of the Act.

Count III alleged that, from April 1, 1975 until November 28, 1978 (including, but not limited to, April 1, 1975 and August 4, 1977), Ralston Purina Company (the "Company") allowed the emission of prominent discrete tones from a property-line-noise-source located on its Class C land to receiving Class A residential land in violation of Rule 207 of Chapter 8 and Section 24 of the Act.

A hearing was held on July 24, 1979. The parties filed a Stipulation and Proposal for Settlement on September 10, 1979. On November 15, 1979, the Board entered an Interim Order which rejected the settlement agreement because of a proposed contingent suspended penalty provision. After discovery and further extensive settlement negotiations between the parties occurred, the Board entered an Order on October 14, 1982 which was designed to expedite proceedings. The parties filed a second Stipulation and Proposal for Settlement on November 17, 1982 and a second hearing was held on January 27, 1983.

The Company's soybean processing and animal feed facility is bordered on the south, southeast, and east by residential areas and is near the G.M. & O. Railroad tracks which curve diagonally to the northeast and southwest. (Ex. A; Stip. 2). While some of the older homes east of the plant were built before the Company built its facility, a large number of nearby homes were constructed after the plant was already in operation. (Stip. 4).

Noise sources at the Company's facility include equipment such as fans, pumps, conveyor belts, dryers, and rollers which are utilized during the process of storing and preparing soybeans, extracting soybean oil, and producing animal feed. (Stip. 2). While the soybean processing plant ordinarily operates 24 hours a day, 7 days a week; the animal feed plant usually operates only 5½ days per week. (Stip. 2-3). Complaints about excessive noise from the Respondent's operations initially came from nearby residents and noise surveys conducted by the Agency confirmed that the Company failed to comply with applicable noise regulations.

The proposed settlement agreement provides that the Respondent has already undertaken various noise abatement measures pertaining to equipment modifications to reduce noise levels; specifies certain further noise abatement measures which shall be accomplished; and provides for a stipulated penalty of \$5,000.00. (Stip. 4-13).

Noise abatement measures which have already been implemented include: (1) the installation of a partial acoustic enclosure around the cooling tower pump and motor; (2) the placement of silencers on dust collectors and fans; (3) the modification of the pressure blowers; (4) the discontinuation of the use of a vacuum system to clean spills at the animal feed plant; (5) the installation of a more quiet corn grinding system; and (6)

the minimization of incoming truck traffic during night-time hours. (Stip. 4-9). The Company has agreed to expeditiously install a special silencer on a specified negative transfer fan and to place an acoustic enclosure around the dump section of the bucket elevators near the grain dryer. (Stip. 7). Additionally, the Company has agreed to properly maintain its silencers and other noise control equipment and to submit a final progress report to the Agency when all required steps have been taken to minimize noise. (Stip. 7-10)

In evaluating this enforcement action and proposed settlement agreement, 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 and finds the second settlement agreement acceptable under Procedural Rule 331. The Board notes that condition N of the second Stipulation could possibly lead to an extended period before compliance. Condition N is unacceptable in that it provides for the "granting" of a variance solely by agreement among the parties. The Board therefore proposes a modification of this condition by striking the language in condition N, lines 3-4, reading "or by any other circumstances agreed to by the parties". The Company shall execute a Certificate of Acceptance if it should agree to this modification. The Board finds that the Respondent, Ralston Purina Company, has violated Rules 102, 202, and 207 of Chapter 8 and Section 24 of the Act. The Respondent will be ordered to follow the specified compliance plan and schedule set forth in the second Stipulation and to pay the stipulated penalty of \$5,000.00.

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

ORDER

It is the Order of the Illinois Pollution Control Board that

1. The Respondent, Ralston Purina Company, has violated Rules 102, 202, and 207 of Chapter 8: Noise Regulations and Section 24 of the Illinois Environmental Protection Act.
2. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$5,000.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the second Stipulation and Proposal for Settlement (including condition N as modified by deletion of the language in lines 3 and 4 reading "or by any other circumstances agreed to by the parties") filed on November 17, 1982, which is incorporated by reference as if fully set forth herein.

4. Within 45 days of the date of this Order, Ralston Purina Company shall execute and forward to the Illinois Environmental Protection Agency 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this Order. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 78-293, dated _____ understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

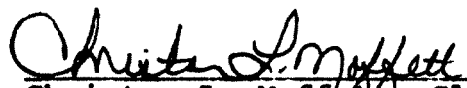
By: Authorized Agent

Title

Date

IT IS SO ORDERED

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 24th day of March, 1983 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board