

ILLINOIS POLLUTION CONTROL BOARD
June 8, 1978

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 77-206
)
 RALSTON PURINA COMPANY,)
 a Missouri corporation,)
)
 Respondent.)

OPINION OF THE BOARD (by Mr. Dumelle):

This Opinion is in support of an Order entered May 25, 1978.

On April 21, 1978, Complainant filed a Stipulation and Proposal for Settlement in this case. The proposed settlement is based on the parties' agreed statement of facts as follows:

1. Citizens residing in the general area of Respondent's plant complained of offensive odors during the spring and summer of 1977.
2. A waste-water settling lagoon on the premises turned anaerobic during this time period which complainant believes was the source of the objectionable odors complained of.
3. Respondent on its own initiative acted to abate the odors associated with the improper functioning of the lagoon.
4. Since the spring of 1977, no further written complaints concerning odors at the plant had been received by either party.

On April 19, 1978, a public hearing was held in this matter. Notice of the hearing was given by publication in a local weekly newspaper of general circulation, pursuant to Rule 307(b)(2) of the Board's Procedural Rules. None of the citizens who had complained of the odors to the Agency or the Attorney General's Office was notified by mail of the proceedings. The Board's rules do not require such notice to individual interested citizens unless the Agency is Complainant in a formal action [See Rule 307(d)]. However, those same

policies which underlie the notice provisions of Section 307(d) of the Procedural Rules (to encourage public participation in the task of protecting the environment and to ensure interested parties an opportunity to be heard) would seem to apply equally to cases originated by citizen's complaints but brought in the name of the People of Illinois by the Attorney General directly as when the action is filed in the name of the Agency. Those persons who were present at the hearing in this case objected to the lack of individual notice and stated their belief that many interested persons were thereby prevented from attending the proceedings.

Those citizens testifying at the hearing objected to the Proposed Settlement on the grounds that, contrary to the position taken by the parties herein, the offensive odors complained of were not abated by any action of Respondent in the spring or summer of 1977, but have been emitted on an intermittent, continuous basis from the date plant operations began to the present time.

One person recorded perception of strong odors on December 29, 1977; January 9, February 5 and 22, March 25, and April 6 and 10, 1978. (R.14.) Dates recorded by a neighbor of this witness were read into the record (R. 15): January 9, 20; February 5, 22; March 8, 25; and April 6, 19, 1978.

Another witness who resides one-quarter mile from the facility testified (R. 20) that odors similar to that from a decaying animal started in the fall of 1976 and were experienced several days each month up through April, 1978.

Testimony of a fourth witness concurred with the above as to the description of the odor and its recurrence up to the present date (April, 1978). (R 24-25.) Several of the dates mentioned by witnesses coincided.

After consideration of the testimony introduced by these witnesses, the Board concludes that the Stipulation of facts submitted by the parties pursuant to Rule 331 (a) (1) may be incomplete as it pertains to the "nature, extent and causes of the alleged violations." For this reason the Stipulation and Proposal for Settlement submitted by Complainant is hereby rejected and the case is remanded to the Hearing Officer for further hearings.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion was adopted on the 8th day of June, 1978 by a vote of 5-0.

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