ILLINOIS POLLUTION CONTROL BOARD
September 15, 1977

ENVIRONMENTAL PROTECTION AGENCY, Complainant,	)	
v.	)	PCB 73-30
W. F. HALL PRINTING COMPANY and CHICAGO ROTOPRINT COMPANY, Respondents.	)	

Messrs. Lee A. Campbell, Special Assistant Attorney General; Dennis R. Fields, Assistant Attorney General; and Ms. Kathryn S. Nesburg, Attorney, appeared for the Complainant.
Mr. Richard Troy and Ms. Gayle Haglund, Attorneys, appeared for Respondents.

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

The original Complaint in this matter was filed by the Environmental Protection Agency (Agency) on January 26, 1973, over four and one-half years ago. The Amended Complaint on which the case is now before the Board, after 22 hearings resulting in thousands of pages of testimony and exhibits, was filed on June 11, 1973; it charges Respondents W. F. Hall Printing Company (Hall) and Chicago Rotoprint Company (Rotoprint), a wholly owned subsidiary of Hall, with violations of §9(a) of the Environmental Protection Act (Act). Ill. Rev. Stat., Ch. 111-1/2, §1009(a)(1975).

Those violations were alleged to have occurred throughout the period beginning July 1, 1970, and continuing through the filing of the Amended Complaint until the present. The sources of the violations are alleged to be adjacent, contiguous printing plants operated by Hall and Rotoprint on the northwest side of Chicago, stretching between Diversey and Belmont avenues approximately 4600 west. The cause of the violations was alleged to be the emission of "ink solvent vapors, hydrocarbons, odors, particulate matter, and other contaminants into the atmosphere..." by Hall and Rotoprint from those plants.

The Agency never seriously attempted to prove any of the allegations except odor emissions; ink solvent vapors, hydrocarbons, etc. were discussed only to the extent that they impacted on the alleged odor problem. That the Agency did not consider Rotoprint to be a significant contributor to the alleged odor problem is plain in the Agency's Brief (at 7, 8):

> An examination of the gravure press operation at Rotoprint shows that, despite emission of tremendous quantities of solvents, the solvents do not cause an odor problem.
> ...[T]he discharge is invisible and is not near as odorous as Hall's heatset press emissions.

The allegations remaining before us, then, are only those of odor emissions from the Hall Diversey plant.

The first five hearings in the matter, from March to July, 1973, resulted in only 215 pages of testimony, from only two witnesses.* At the July 5, 1973, hearing, it was noted that further hearings -- as to odor only -- had been enjoined by the Circuit Court of Cook *County on Complaint by Hall.* W. F. Hall Printing Co. v. Environmental Protection Agency of Illinois, No. 73 CH 3587 (Cir. Ct. Cook Co., Ill., Mejda, J., July 3, 1973). The Agency being unwilling to proceed on the remaining allegations of the Amended Complaint, (R. 4, 7/4/73), no further hearings were held pending appeal of the Circuit Court's decision.

The First District Appellate Court then reversed the Circuit Court in W. F. Hall Printing Co. v. EPA, 16 Ill. App. 3d 864, 306 N.E. 2d 595 (1973) (Supp. Opinion on Denial of Rehearing, Jan. 25, 1974). The Appellate Court found that the Board did have jurisdiction and authority to hear cases alleging the emission of odors in violation of the Act,** which are (1) "injurious to human, plant, or animal life, to health, or to property," or (2) "unreasonably interfere with the enjoyment of life or property." Ill. Rev. Stat Ch. 111-1/2, §1003(b)(1977). 306 N.E.2d at 598. "Unreasonableness is, in part, to be measured in terms of those factors in §33(c) of the Act.*** Id., §1033(c)(1)-(4). 306 N.E.2d at 598.

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* March 19, May 21, June 12, June 28, and July 5, 1973.

** See also, Mystic Tape v. Ill. Pollution Control Board, 16 Ill. App 778, 306 N.E.2d 574, aff'd. in part, rev'd. in part, 60 Ill.2d 330, 32 N.E.2d 5 (1973).

*** Proof as to those factors in §33(c) of the Act remains, however burden of Respondent to the extent that a factor is not a necessary pa Complainant's burden as to unreasonableness. Processing & Books v. PC 64 Ill.2d 68, 351 N.E.2d 865 (1976).

The matter returned to hearing in November, 1974, and an additional 15 hearings* were held through July, 1976. At the conclusion of this series of hearings, Complainant and Respondents jointly submitted to the Board a "Tentative Settlement Agreement." Although that instrument contained other provisions, its principal feature was a proposal that the parties conduct a "neighborhood survey" to determine whether any odors emanating from Hall were causing air pollution** at that time. If the parties concurred in a negative analysis of the survey data, the "Tentative Settlement Agreement" contained further terms for final disposition of the case; if they could not so agree, additional provisions called for the survey's submission to the Board along with additional testimony and evidence to be taken concerning the post-November, 1975, period for decision on the merits of the case.

Although the Board approved the "Tentative Settlement Agreement" in an Interim Order entered August 5, 1976, and the survey was in fact taken, the parties were unable to agree on whether any alleged odor problems at Hall had been solved. On December 2, 1976, the Board therefore granted the parties' joint motion and remanded the matter for further hearing.

Two additional hearings were held on Remand: January 24 and 26, 1977. Pursuant to the parties' motion, as well as the original "Tentative Settlement Agreement," testimony and evidence introduced at those hearings was limited to the period after November, 1975. The parties also entered the results of the survey taken pursuant to our August 5, 1976, Interim Order, (Joint Rem. Ex. 1; Resp. Rem. Ex. 15).***

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* November 13, 14, 15, and December 17, 1974; June 27, July 12, August 5, 6, 7, October 10, 22, and November 4, 5, and 25, 1975; July 12, 1976; constituting R. 6 to R. 1368 in principal Record sequence, cited hereinafter without additional information (date, "Remand," etc.). Citations to the Record of hearings predating the principal sequence show the date; the Record subsequent to the principal sequence is indicated as "Remand."

** This term was not defined in the "Tentative Settlement Agreement."

*** Resp. Rem. Ex. 15 is a compilation of the results of the neighborhood survey admitted by stipulation, R. 217, indicating in tabular form the answers on 89 individual questionnaires of three or four pages each.

Turning to the preliminary issues, Respondent Hall alleged (R. 89) that this Board's hearing process inherently denies due process of law. Hall claimed that the Hearing Officer's lack of authority to rule on substantive issues and the "fact" that only one member of the Board reviews the record ("The others do not even read the transcript....," id.), result in violation of constitutional guarantees. Hall also complained that because the Hearing Officer could not rule at conclusion of Complainant's case, Hall was unfairly required to present its case. Section 33(a) of the Act requires Board -- not Hearing Officer -- decision in Enforcement matters, "[a]fter due consideration of the written and oral statements, the testimony and arguments that shall be submitted at the hearing...," Ill. Rev. Stat., Ch. 111-1/2, §1033(a)(1977). Our procedures for hearing and decision being designed to comply with this requirement, these issues need not be further addressed.

Next, the Hearing Officer noted some reservations with regard to the admission of Respondents' Ex. 3, a "survey" performed by Hall, (R. 593). That survey, unlike another one whose introduction was stipulated to by both sides, (R. 21, Re.; see, also, "Tentative Settlement Agreement," R. 1334-1363), was objected to by Complainant Agency, (e.g., R. 762). While we need not exclude that survey, as Complainant argued, we feel that the circumstances preclude our giving any significant weight to it. Without questioning the veracity or intent of the survey taker (a paralegal for Respondents' counsel), we feel that Respondent has not shown why this survey should be accepted. Without some showing that a survey has been properly designed, administered to a valid sample, and otherwise kept free of bias, it remains highly questionable and carries evidentiary weight accordingly.

Addressing the substantive issues of the case, we have delineated the tests and burdens applicable to §9(a) odor-related matters on many occasions.* Our applications of these tests have been reviewed in the Appellate and Supreme Courts on numerous occasions, as noted by both parties in extensive briefs.

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* E.g., People v. North Shore Sanitary District, PCB 74223, 229, 19 PCB 192 (1975):

> "1. Was there in fact an odor?
> "2. Was the odor caused by [Respondent]...?
> "3. Did the odor result in interference with the lives, environment, enjoyment of property, etc. of the citizens affected?
> "4. Was such interference unreasonable, such unreasonableness being measured, in part, by the criteria in §33(c) of the Act?"

See, also, People v. Forty-Eight Insulations, PCB 74-480, 23 PCB 563, 565 (1976); EPA v. Darling & Co., PCB 71-348, 7273, 11 PCB 535, 542 (1974).

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EXISTENCE OF ODOR

There can be little question of the fact that an odor exists in the area of the Hall and Rotoprint plants. Although some witnesses testified that they had never smelled anything unusual or bothersome in the vicinity (e.g., R. 564, 588-91, 693), a much greater number were quite sure that an odor was present. Even Respondents' witnesses generally concurred in the presence of some odor in the neighborhood, (e.g., R. 720, 558, 562). A study commissioned by Hall (EPA Ex. "R," R., 1201-1202) also confirmed the presence of some odor. Complainant's numerous witnesses were unanimous on the issue, and the jointly entered survey (Joint Rem. Ex. 1) adds confirmation that at least some odor is certainly detectable in the neighborhood.

SOURCE OF ODOR

Hall did contest the testimony of several witnesses as to the source of various odors being complained of. With regard to some witnesses, Hall's efforts were sufficient to discredit much of their testimony.

EPA witness Michalski, for example, presented considerable testimony potentially very damaging to Hall; however, he alleged that odors identical to those he purportedly traced specifically to Hall were also present on Easter Sunday, when Hall was not operating, (R. 62-74, 1035). Michalski's certainty and record keeping were left doubtful.

Similarly, testimony by EPA witness Illarde, who lives over a mile from Hall, seems questionable. Also, other witnesses were apparently convinced as to the source of "the odor" by investigators for Complainant, (e.g., R. 295), who (we assume inadvertently) asked neighborhood residents about odors 'from Hall.'

Despite these inaccuracies, discrepancies, and suggestions, the testimony and evidence is sufficient to show that Hall is, if indeed not the only identifiable contributor, at least the predominant source of odors in the neighborhood.

EPA Ex. R. (R. 1201), cited supra as to the existence of "an" odor, was a study commissioned by Hall in which independent consultants identified Hall as a source of odor. One of Hall's own witnesses, Alderman Laskowski, identified Hall as the source of an unobjectionable odor which he characterized as, "a very light fog with a smog of ink...," (R. 720). A finding that Hall is the source of the odor in question is the only conclusion that can be drawn from the numerous witnesses and exhibits in this case.

INTERFERENCE

Hall argued at some length that its emissions do not interfere with the enjoyment of life or property in the neighborhood surrounding its plant. Turning first in this respect to Hall's briefs, we cannot accept many of the arguments raised there. Hall cites, especially in its 63-page reply brief, from various sociological texts* to support arguments that:

(1) Its neighbors' apprehensions of interferences were induced by the Attorney General's investigation;

(2) it has been made a scapegoat for other general social problems; and,

(3) its neighbors' allegations of odor-based interference are a venting of other complaints specifically regarding Hall, such as truck noise, the presence of minority employees, and parking problems.

To the extent that they are not otherwise supported in the record, these arguments and citations are ex parte and may not be considered. See, e.g., City of Monmouth v. PCB, 57 Ill.2d 482, 313 N.E.2d 161, 166 (1974). Even if we do consider these allegations, however, they are not convincing. Hall has failed to show that such problems, if they exist, actually caused or initiated the many odor complaints of its neighbors; further, Hall has not even shown that these problems seriously affected its neighbors in general or EPA's witnesses specifically. Nor has Hall addressed the question of whether such problems could not be present at the same time as an odor problem.

There can be little question that Hall's emissions have caused interference with the enjoyment of life and property. The Agency brought a considerable number of citizen witnesses, most of whom complained of significant interferences; e.g., being forced to forego the use of a yard, being unable to invite guests, being forced to move indoors, having to use air-conditioning or to keep windows closed, etc. The sixth (R. 6-87), seventh (R. 88-163), eighth (R. 164-220), and ninth (R. 221-373) hearings, in November and December 1974, are largely such testimony.

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* E.g., Sherif and Houland, "Judgemental Processes and Problems of Attitude," Social Judgement, Yale University, 1961; Encyclopedia of Sociology, Dushkin Publishing Group, 1974; Hollander and Hunt (eds.), Current Perspectives in Social Psychology, Oxford U. Press, 2d ed., 1967.

Some of this testimony was questionable or discredited, but the bulk of it remains valid and shows that Hall's emissions do cause significant interferences. Although not all witnesses were equally affected and some were not affected at all, the interference was sufficient to require further analysis as to reasonableness.

As respondents argue, the Agency has been unable to demonstrate adequately that the effects claimed by many of its witnesses, such as coughing, watering eyes, etc. might not be the result of such other causes as high ozone concentrations, or emissions from other sources. These effects are subjectively different from witness to witness, and we cannot know that the witnesses were not particularly susceptible to such other causes. The Agency brought no expert testimony to link alleged physical ill effects to Hall's emissions. See, e.g., Draper and Kramer v. PCB, 40 Ill.App.3d 918, 353 N.E. 2d 106, 109 (1976).

With regard to presence and interfering quality of the odor itself, however, we have no such difficulty. There were sufficient witnesses and testimony to indicate that Hall's emissions were sometimes so unpleasant as to require that the use of backyards be given up, barbeques abandoned, etc. Regardless of whether or not there were actual physical reactions, such as coughing or tearing, to Hall's emissions, an unpleasant odor may, in and of itself, be sufficient interference to constitute a violation of §9(a).

UNREASONABLENESS

The fact is, however, that while many of Hall's neighbors were interfered with in this manner, not all were so affected. Respondents brought considerable testimony to show that some of its neighbors detected no odor at all in the area, and some that did were not bothered by the odor which they detected, (e.g., R. 558, 562, 564, 725). Despite arguments to the contrary by the Agency, the same can be seen in an examination of the survey taken pursuant to the parties' Tentative Settlement agreement, (Joint Rem. Ex. 1). While many of Hall's neighbors experienced significant interference, some merely detected an odor and some were not affected at all.

This fact is a principal basis of Hall's defense: How many of its neighbors must be adversely impacted, and how adverse must that impact be for a finding of §9(a) violation?

This issue is particularly relevant in this case inasmuch as Hall has also alleged that the costs of controls to completely eliminate any odor from its emissions would be very high. Hall claims that when measured against the limited number of people adversely impacted, each of the factors in §33(c) of the Act militates for a finding that its emissions are not "unreasonable."

Hall argues that the character and degree of any injury from its emissions is negligible in comparison to the social and economic value of its plant. Hall claims that its plant preceded the houses and apartments of its neighbors into a principally industrial area imminently suited to its operations. It is also argued that even if the large sums necessary were expended for emission control, there is no emission control technology which has been shown to be practicable. Hall finally argues that specific problems with its plant make the addition of any control technology impracticable. All of these points, Hall feels, show that its emissions are not unreasonable, as that term is used in the Act, and that it should not be required to eliminate what it calls "the common odor of printers' ink."

Looking first at the issue of priority of location, the Board has often held that priority in location can never provide a permanent license to pollute. Odor discharges, like any other contaminant emissions, cannot be continued permanently simply because they were already there. It is one purpose of the Act to eliminate such emissions as quickly and thoroughly as is economically and technically reasonable. Further, testimony presented by the Agency, (R. 325), showed the area was at least partly residential when the Hall plant was built in 1924. Other Agency witnesses also claimed that the odors from Hall have increased as the Hall plant expanded, (e.g., R. 168-170). Priority in location cannot justify permanent interference by emissions even if a plant were unchanged, and Hall now operates what it readily admits is one of the world's largest printing plants under one roof. The massive emissions from such a source cannot be justified by the installation of a smaller operation in 1924.

Finally in this regard, the historic zoning of an area is not controlling; examination of various aerial photographs submitted by the parties shows that the area surrounding Hall is largely residential and has been for many years, entitling the residents to protection.

TECHNICAL FEASIBILITY; ECONOMIC REASONABLENESS

Hall's emissions are principally hydrocarbon solvents, with some of the actual inks and pigments carried along. The nature of the solvents and the form in which they are emitted depend on the type of printing process utilized, and on the way in which the solvents are dried (or evaporated) off the printed surface.

The parties seem to agree that the rotogravure printing method used at Roto is not a serious source of odor emissions due to the low temperature of drying, despite the use of tremendous quantities of inks and solvents. We shall, therefore, dismiss as to Roto, lacking any evidence of violation by it.

The parties also agree that there is no problem with emissions from sheet-fed letterpresses or sheet-fed offset presses. There are apparently no dryers associated with these presses, and the solvents oxidize or dry without significant emissions.

The remaining presses, which are alleged to be the principal source of odor emissions, are web-fed offset presses. These presses print on one or both sides of a continuous roll of paper (the web) which moves at considerable speed, (R. 865 et seq.). After passing through the press, such webs are dried (the solvents driven off) by one of two methods: (1) direct flame impingement, in which the web is contacted briefly by flames and then travels through additional forced hot air dryers as part of the same process; and (2) hot, or forced, air dryers in which forced air is used to hasten solvent evaporation. In either case, exhaust air with the entrained solvent vapors is then vented to the atmosphere through stacks mounted atop the Hall plant.

The parties devoted considerable effort to presenting evidence, testimonial and documentary, on the technical practicability and economic reasonableness of controlling these emissions. The various control technologies covered were, briefly:

1. Direct flame incineration - Under this method the hydrocarbon emissions are passed through a flame and, given the requisite temperature and residence time, broken down into their inoffensive constituent parts, (e.g., R. 393, 894).

2. Catalytic incineration - This method involves the use of precious-metal catalysts to reduce the temperature needed (and thus the energy required) for incineration, (R. 893, 897).

3. Ultraviolet inks - The solvents are actually caused to change form, and apparently solidify without any emissions under this method, (R. 992).

4. "Smog Hog" - This involves the use of a "heat wheel" to cool untreated exhaust gases prior to passage through an electrostatic precipitator, and was covered at great length by the parties at hearing and in their briefs, (R. 424-32, 513, 1264, 1268).

5. Johns-Manville high energy air filtration - This device traps particulate from cooled exhaust gases in a traveling bed of filter media, (R. 885).

6. Beltran Electrostatic Precipitation - This device operates on the same principle as the "smog hog," but without the "heat wheel," (Rem. R. 97-99, 122).

7. Ink reformulation - This method would change or eliminate odors by changing the nature of the solvents and inks. It was used by Hall to eliminate an opacity problem, in a program undertaken to satisfy emission requirements of the City of Chicago, and is claimed by Hall to have solved the odor problem (if any existed), (R. 940, et seq.).

8. Others - Other control methods were discussed principally in documents submitted by the parties, (e.g., Exs. M, N), but were not seriously considered at hearing. These included adsorption, baghouses, scrubbing (R. 510-512), masking unpleasant odors with stronger, pleasant odors, and "counteracting" odors by adding chemicals to change their nature, (Ex. N, pp. 135 et seq., 154, 230, Table 37).

The bulk of Complainant's evidence on control technologies covered the incineration methods and the "smog hog." Respondents concentrated on ink reformulation, and discussed other methods only briefly or disparagingly. Because we have little information on the "other" methods noted above, we shall not discuss them; none seem relevant or applicable. "Ultraviolet inks" were touched upon only briefly, and with regard to a situation which does not show any technical feasibility (the example plant -- I. S. Berlin in Chicago -- is closed); we shall not discuss it either.

Some of these control techniques, especially the "smog hog," were cited by the Agency as being effective in analogous situations, such as the metal coatings industry, (R. 412, 992). Hall objected strenuously to this, claiming that the Agency had not shown that any technology useful in one situation could be used to control Hall's printing industry emissions. While Hall did show some differences, (e.g., R. 992-94), these were not sufficient to show inapplicability. (See, e.g., Exs. M, N.) The Agency met its burden of showing a basic violation, with an apparently valid showing that control technologies should be interchangeable.

The issue is mooted, however, with regard to the "smog hog." The Agency showed that if it were successful in controlling some emissions (e.g., Cadillac Printing, R. 426), it would be applicable at Hall. But the Agency did not reach that first hurdle as to success anywhere with the "smog hog." Although Complainant attempted to avoid the issue, (e.g., R. 1259-63), Hall presented sufficient testimony to show that the "smog hog" is not adequate in those applications cited. It has caused fires due to shorting in the electrostatic section. It has not been shown to prevent emissions. In short, its usefulness has not been proven, and the Agency has presented no evidence to show that it can be proved, (e.g., R. Rem. 149-213; R. 885-86, 1264-68). (We nonetheless sustain the Hearing Officer's ruling on certain testimony in this regard, against Respondent, R. 129, Jan. 24, 1977).

With regard to the Johns-Manville high energy air filtration unit, the Agency argues that it would work for Hall, (Br. at 37). The only evidence on the subject (from Hall) is opposite, however: While emissions are acceptable, maintenance requirements are so high as to render the unit unacceptable. The cooling coils on the unit soon become completely contaminated, (R. 885). Without additional evidence, we cannot see that this is a technically feasible method to eliminate odors at Hall.

The Agency spent a great deal of time at hearing showing the efficacy of both incineration and catalytic incineration. This included testimony regarding success at other plants and the economics of operating such units.

Hall also spent considerable effort on the subject, to support its five objections to incineration or catalytic incineration: (1) gas unavailability, in light of the energy shortage; (2) failure of incineration to eliminate odors; (3) technical problems resulting from limitations of space, etc. at the Hall plant; (4) increased emissions of oxides of nitrogen (NO_x), creating a worse pollution problem; (5) cost.

The Agency was able to show that sufficient gas would probably have been available to solve Hall's problems had Hall acted before recent gas shortages. Hall actually installed two catalytic burners, using approximately 2,000 CFH of natural gas to control the exhaust from two presses. It is probable that even as late as 1975 Hall could have obtained adequate gas.*

In addition, Hall should have known of ability of incineration to control emissions. The Agency presented adverse testimony (e.g., 6/28/73, R. 17, 19) and exhibits (Exs. M, N) showing the widespread application of incineration and catalytic incineration to pollution control in the printing industry. Hall's arguments that incineration will not control odors are not adequately supported in the record; efficient incineration was shown to destroy the hydrocarbons which, according to Hall, are the only constituents of its effluent gases. Without such hydrocarbons, no odors would then be present.

Likewise, Hall offers little or no support for its arguments that new, more dangerous pollutants would be created by incineration, (see e.g., Ex. N, p. 133). We, therefore, need not discuss the issue.

Hall offered more support for its claims as to the feasibility problems associated with incineration technology specifically applied to Hall. Hall showed that it is very difficult to construct and install the necessary equipment: This can only be done by cutting away the roof, from inside the plant. However, Hall has already done this twice, showing practicability.

Hall's only real argument with regard to catalytic incineration, for the period before the current gas shortage, is cost. Construction of the necessary roof platforms and purchase, installation, and operation of catalytic incinerators would cost a large sum. The units and platforms installed for two presses cost nearly $250,000, (R. 911-920, Ex. 13-15). Cost estimates for complete control at Hall ranged from $650,000 (by Hall, Ex. W) to $2.5 million (control of a similar facility, R. 407), or $80-100,000 or more for each press to be controlled.

We find that such costs for catalytic incineration would have constituted a reasonable expenditure to provide odor control, and relief from the interferences described above, for the years covered in the complaint and the future.

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* Because of other testimony on the subject and the time periods involved, we need not rule on an offer of proof by Respondent regarding cutbacks of gas availability, (R. 112, Jan. 24, 1977).

Hall's principal efforts have been in ink reformulation. In addition to unsuccessful efforts in water-base inks costing $125,000, Hall spent $300,000 per year in the first 14 months following adoption for reformulated inks. These expenditures have apparently been successful in abating an opacity problem, and may (Jt. Rem. Ex. 1) have had some effect on the odor problem. They have not, however, been enough; the odor problem still exists and still requires solution. By a timely adoption of catalytic incineration, Hall could have eliminated both the smoke and odor problems at a time when gas was available.

There are other technologies (e.g., the Beltran unit) and advanced catalytic incineration which might be applicable at Hall. However, the Record is weak on these methods, and we shall allow Hall to do further study on them, as noted below.

FINDINGS

In summary, we find that while Hall may have pursued ink substitution or reformulation in good faith to overcome excessive smoke emissions, it has been tardy -- if not recalcitrant -- in facing or dealing with a substantial odor problem. Had Hall acted in a timely manner, gas would have been available for incineration. The Environmental Protection Act has been in force for approximately seven years. After so long a period, Respondent still has not even admitted to a patent odor problem, let alone seriously undertaken abatement.

In mitigation, however, we agree with Respondents' arguments that the printing industry has always been accompanied by an odor of ink and solvents. Although that historical fact cannot justify continuing odor emissions or similar odorous emissions on a scale like that here, ("...one of the largest printing plants in the world under one roof ...," Resp. Br. at 11 [emphasis in original]), it may provide partial explanation for the delay seen here.

Likewise, we must consider the fact that not all of Hall's neighbors are affected. While Hall's contentions that the affected individuals are particularly sensitive, or are persecuting it on other grounds such as parking or race, these are not adequate to disprove the unreasonable interferences we find; they do provide some explanation for Hall's failure to take the problem seriously. Hall might reasonably have believed that some of these individuals were indeed complaining for other reasons. However, Hall's citation to Processing & Books v. EPA, supra, that this is the type of "trifling inconvenience, petty annoyance or minor discomfort" which the Act does not protect against, is not convincing. 351 N.E.2d at 869. A significant number of individuals have suffered a significant, unreasonable interference. Hall's emissions need not, as it argues, be unbearable in order to constitute a violation of §9(a).

We agree that Hall provides a considerable social and economic benefit to its many workers. However, such benefit cannot justify the unreasonable interferences its emissions cause; in fact, such benefits would be increased by operations complying with the Act.

Finally, we agree with Hall that the fact that gas which may have been available in the past might not be available now; however, we find a violation with regard to its past operations. Hall's ability to comply in the future will be considered in setting a remedy.

In light of the many factors present, we feel that a large penalty is not necessary here; such funds are better spent to achieve compliance, albeit belated. Because of Hall's reluctance to even face the problem, however, and the Act's mandate in §2(b) that "adverse effects upon the environment are fully considered and borne by those who cause them," some penalty is needed. We find that a penalty of $15,000, while small when compared to the period of time involved and the potential costs of compliance, will serve the purposes of the Act.*

We shall not require immediate compliance. In light of the current gas shortage and the magnitude of the problem, we shall require that Hall present to the Agency a plan for odor abatement within 180 days of the entry of our Order.

As noted above, we shall dismiss those portions of the Amended Complaint alleging violation by Rotoprint, as well as all alleged violations by Hall other than odor.

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 W. F. Hall Printing Company is found to have operated its Chicago, Illinois, facility in such a manner as to emit odors unreasonably interfering with the enjoyment of life and property in violation of Section 9(a) of the Environmental Protection Act.

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* The Agency has requested a very large penalty, alleging that Hall saved significant sums by not acting to eliminate odors. However, we note that Hall has spent significant sums on air pollution control.

2. Respondent W. F. Hall Printing Company shall pay as a penalty for said violation the sum of Fifteen Thousand Dollars ($15,000), payment to be made within thirty (30) days of the date of this Order to following address:

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

3. Respondent W. F. Hall Printing Company shall, within one hundred eighty (180) days of the date of this Order, submit to the Agency a full and complete plan for the abatement of such unreasonable odors in a timely fashion. If such plan requires construction or equipment installation, it shall show a schedule for such construction or installation to be completed in the shortest practicable time.

4. Respondent W. F. Hall Printing Company shall, upon approval of such plan, with any modifications found necessary or desirable by this Board, cease and desist all odor violations within the time frame permitted by such plan.

5. Those portions of the Amended Complaint in this matter alleging violation by Respondent Chicago Rotoprint Company, and those portions alleging other than odor violation by Respondent W. F. Hall Printing Company, are dismissed.

6. To the extent consistent with the requirements of this Order, jurisdiction is retained in this matter.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of September 1977, by a vote of 4-0.

Christan L. Moffett, Clerk
Illinois Pollution Control Board

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