

ILLINOIS POLLUTION CONTROL BOARD
July 22, 1976

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 NORTH SHORE SANITARY DISTRICT,)
 a municipal corporation,)
) Respondent;) PCB 74-223
) PCB 74-229
) (CONSOLIDATED)
)
 CITY OF HIGHLAND PARK,)
)
 Complainant,)
)
 v.)
)
 NORTH SHORE SANITARY DISTRICT,)
)
 Respondent.)

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

The Board's principal Opinion and Order in this matter was entered on November 6, 1975. The Board there found that Respondent North Shore Sanitary District (NSSD) had operated the Clavey Road sewage treatment plant (STP) in such a manner as to have caused serious odor pollution, in violation of Section 9(a) of the Environmental Protection Act (Act). In addition to other remedies, paragraphs 3, 4 and 5 of the Board's Order there required that the parties perform certain actions, and submit certain reports, to allow the Board to arrive at a suitable remedy on the subject of air pollution monitoring facilities at the Clavey Road plant.

After several delays, the City of Highland Park submitted its report regarding monitoring (hereinafter, the "City's Report") on March 19, 1976. The NSSD's Report regarding monitoring (hereinafter, the "NSSD Report") was submitted on April 28, 1976. (No report was ever filed by the People; nor was the People's failure to so report explained or otherwise commented upon.) Pursuant to a Motion filed June 14, 1976 by the City of Highland Park, all parties were allowed an additional period until June 29, 1976, to submit further pleadings; only Highland Park responded.

Despite the Board's request that the reports ordered in paragraph 5 be better organized and more thorough than the record seen up to that time (November 6, 1975 Opinion and Order at 20), the record still fails to contain a single, thorough description of the proposed monitoring equipment at the Clavey Road plant. We have the attachments to the City's Report, constituting design and construction specifications, apparently taken from NSSD sources. The NSSD Report provides little more, giving only a cursory description of the equipment proposed for control and monitoring at Clavey Road (NSSD Report, Ex. B).

The design specifications appended to the City's Report are incomplete, in that they fail to specify the sampling locations, etc., for the plant as a whole. The Record generated at the earlier hearings does not fully correct this deficiency (e.g., R. 230-301). The Exhibits appended to the NSSD Report raise as many questions as they answer.

Despite these inadequacies, we find that we are able to reach a decision on the monitoring issue on the hearing Record and Reports now before us. We reach this decision reluctantly, in light of the paucity of information in the Record, but this matter has now been before the Board for nearly two years and must be resolved.

Our decision on monitoring is based on answers or -- more importantly in some cases -- the lack of answers to the following questions:

1. What were the causes of the odors at the Clavey Road plant?
2. What has been done to correct those causes?
3. What will monitoring at the Clavey Road plant accomplish to assure the Board and the surrounding residents that the past odor problems will not be repeated?

Causes. Our November 6, 1975 Opinion in this case found the odors at Clavey Road to be caused by both overloading of the plant and mismanagement of the plant by NSSD. We also found as a contributing cause the construction and expansion taking place at the plant, pursuant to League of Women Voters, supra, and other cases.

Correction. Testimony by Mr. Riddell, (R. 228 et seq.), along with the NSSD Report, provides what information we have on this subject. The plant, as noted in the November 6, 1975 Opinion, has been undergoing considerable expansion and other work to correct the overloaded conditions at Clavey Road. Included in that work is the construction of several air purification facilities. These include covering much of the plant, ducting the exhaust gases from the plant to several locations, and the purification of those gases through various control mechanisms, including scrubbers, high temperature afterburners, iron sponges and other devices.

The principal purpose of the air cleaning devices will be the control of hydrogen sulfide, H₂S, commonly known as "rotten egg gas." The scrubbers in particular have been designed to remove this constituent from the plant's emissions, and will apparently serve to accomplish this. This should serve to eliminate part of the odor problem complained of by citizens, (e.g., R. 30).

It will not, however, eliminate all of the odors present in Clavey Road's emissions. Exhibit A to the NSSD Report shows clearly that H₂S removal will change the nature of the plant's odors, instead of eliminating it. Although the resulting odor may be less unpleasant than H₂S, it will be equally detectable.

The problem is further compounded because NSSD does not know the chemical constituents of the odors which will remain after H₂S removal. NSSD claims, however, that these odors should not be a serious problem because:

1. The emissions will be through a small number of individual stacks subsequent to H₂S removal, such that the emissions should be dispersed high above ground before affecting the surrounding residents.
2. The odors should be diminished through proper operation of the new plant facilities.

We agree that these compliance efforts should help considerably to abate the past problems at Clavey Road.

Monitoring. Highland Park originally asked for monitoring for two reasons:

1. to tie future problems directly to the Clavey Road plant, avoiding the problems of proof seen in our November 6, 1975 Opinion in this case, such that the times and causes of odor nuisances from the plant can be related; and,

2. to assist all interested parties, including the City, NSSD and this Board in resolving any future problems, as well as any continuing ones.

Highland Park also noted, (Ex. 5), that monitoring had been required by the Lake County Circuit Court.

NSSD's response in this regard, at hearing, in its Brief in this case and in the Report now before us, has uniformly been in opposition. In fact, the NSSD Report is primarily a brief on the issue of this Board's jurisdiction and authority to enter specific abatement orders. NSSD Report at 4.

None of the NSSD arguments are persuasive. The Act provides specifically that the Board may enter the appropriate, specific abatement orders that an individual pollution problem demands. Ill. Rev. Stat., Ch. 111-1/2, §33 (1975). It would serve no purpose to cite examples of such orders; many of the orders entered by the Board in enforcement cases would serve.

As to NSSD's characterization of the Board's function, to achieve the statewide freedom from pollution which the Act mandates the Board must in individual cases take whatever actions are necessary for the achievement of that goal. Where an individual polluter has demonstrated an inability to abate the pollution which it causes, the Board can and must order such specific actions as are necessary to achieve abatement. Where the polluter's record indicates that a simple "cease and desist" order is ineffective, we must reluctantly go beyond such an order.

NSSD's analogies to "camel - a horse designed by committee," and "too many cooks . . ." to describe its problems at the Clavey Road plant, are not appropriate in this instance. Our only comment on this issue is that NSSD's record before the Board in this matter indicates that problems would not have arisen had NSSD performed its own function in a timely and adequate manner.

Monitoring facilities at the Clavey Road plant should, if properly designed, provide NSSD with a means of monitoring its own problems and correcting them and, thus, correcting those past problems. To some extent, this is precisely what the monitoring now proposed by NSSD will do. The monitors shown in the NSSD Report will, by sampling air immediately before and after many of the H₂S removal devices, provide an ongoing record of the efficiency of these devices.

While Highland Park accepts the majority of NSSD's monitoring proposals, for just those reasons, they also wish the following additions:

1. The H₂S monitors in certain areas should be increased to allow continuous recording of the performance of the scrubbers, etc.; and,

2. Perimeter monitors should be required, to show the effect of plant operations in general, and to record any leaks, etc., which would not be recorded by monitors in the area of the control devices.

We do not feel, in light of the uncertainties discussed above, that we would be able to justify these requested additions to the proposed monitoring system. We shall instead require that NSSD comply with the monitoring program outlined in Exhibit B in its Report.

We are particularly concerned about the fact that the chemical constituents of those odors which the plant may release even with the H₂S removal equipment working are not known. The perimeter monitoring additions requested by the City would be further H₂S monitors, which would be inadequate for the following reasons:

1. They would record only gross errors, such as major leaks or scrubber breakdowns, at Clavey Road.

2. They would, assuming normal operations, not record any of the odors likely to be present.

The continuous monitors requested by the City for certain of the scrubbers have, likewise, not been justified. Because the citizen testimony taken at the first hearing in this matter, (R. 1-144), indicated that odor problems at Clavey Road tend to be of relatively long duration, a two-hour recording cycle for the scrubber monitors should suffice.

Without knowledge of the odor constituents which are likely to be present, we can reach no other decision. While we hope that the many new facilities at Clavey Road will prevent recurrence of the odor problems there, we nonetheless know that if they should recur, the senses of the surrounding residents will provide an adequate monitor.

Nor do we feel that further exploration of the problem, with further reporting by the parties, would provide a solution. At the time of the hearings in this matter, many of the new facilities at Clavey Road had not been completed. It appears from the parties' Reports that construction at Clavey Road is still continuing. We therefore feel that such further investigation and reporting would probably be futile until "normal" plant operations have begun.

We shall, however, require that NSSD maintain all of its monitoring records, and make these records available for reasonable inspection by Highland Park. Highland Park's continuing interest in NSSD's performance at Clavey Road has, and should continue to provide an impetus toward complete abatement of the odor problem.

The City's request for access to NSSD's bids on the monitoring equipment, with participation in the contracting process, must be denied. We cannot envision a basis for such participation.

Finally, we note that our Order here on the subject of monitoring in no way is intended to infringe upon or affect the Order of the Circuit Court shown in Exhibit 5 and discussed in our Nov. 6, 1975 Opinion and Order. We have no such authority.

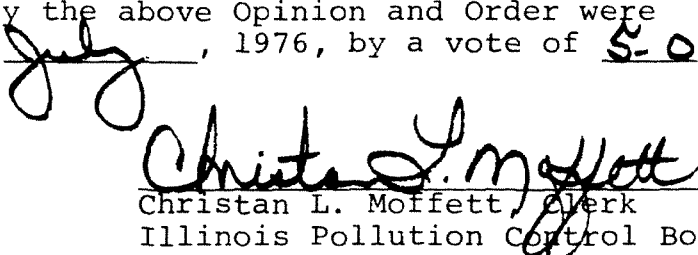
This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that:

1. Respondent North Shore Sanitary District comply with the monitoring program outlined in Exhibit B in its Report in this matter filed April 28, 1976.
2. All monitoring reports obtained pursuant to that program shall be made available to Complainant City of Highland Park on a reasonable basis during normal working hours, and may be copied by Complainant City of Highland Park at its own expense.
3. Respondent North Shore Sanitary District shall, in addition to the above, comply with all monitoring and/or reporting requirements of this Board's Regulations, the Environmental Protection Agency, and any relevant permits for the Clavey Road Sewage Treatment Plant.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 22ND day of July, 1976, by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board