

the shut down of the plant and admits all of the allegations of the amended complaint. Respondent again moves for the entry of a final order "which does not assess a money penalty or assesses only a small penalty without further proceedings of the Board". Counsel for both parties appeared at the March 15, 1973 Board meeting and submitted a Statement of Facts stating to the Board that it was the intention of both parties that the entire matter be resolved on the basis of the amended complaint, the two submissions made subsequent thereto by Respondent and the agreed Statement of Facts, which we are willing to do, particularly in view of the shut down of the plant already having taken place.

The Statement of Facts sets forth that Van Der Molen owns and operates a three-cell incinerator plant in Melrose Park, providing waste disposal services to residents of over 14 Chicago Metropolitan communities. The facility began operations in 1959, at which time refuse was spread across reciprocating grates, reducing the waste material by burning it to a residue. Gaseous emissions entered a common breach after passing a suspended arch and baffle wall. The gaseous substance was sprayed with water to minimize particulate emissions. In 1961, an improved gas scrubber design was developed and multi-wash collectors were installed. This equipment proved ineffective and was destroyed by corrosion in approximately fourteen months. In 1963, Respondent developed and installed a high-efficiency gas scrubber at the Melrose Park plant. Respondent's plant engineer was granted letters of patent for the design and construction and other plants utilized the same process, including one in Weber County, Utah, which was field-tested and which test results have been filed in the record herein. The Statement of Facts further recites that Respondent, in the course of its incineration operation, as a consequence of inadequate maintenance and repair procedures, has permitted its facilities to emit particulate matter, in violation of the provision of Section 9(a) of the Environmental Protection Act and Rule 3-3.232 of the Rules and Regulations Governing the Control of Air Pollution.

The parties agree that if specified individuals were called as witnesses in the proceeding, they would testify in the following manner:

Mrs. Edveta L. Wolf - That she has observed repulsive odors and smoke. She is located less than two blocks in a northerly direction from Respondent. That she has observed smoke blowing from Respondent's facility from her office. That when the wind is from a southerly direction, the smoke and odor are prevalent. That due to the smoke from Respondent's operation, a film forms on her car and those parked in the company's yard and that the company cannot keep the front of its building clean.

Milton Leek - He would testify that his business operation is located approximately two blocks north of Respondent and that he has observed dust, dirt and obnoxious odors at his place of business;

that he has observed smoke blowing since 1970, that the smoke blowing causes cars in his company's lot to become dirty and the smoke causes the front of the company's building to become dirty.

Mr. and Mrs. J. J. Vokoun would testify that they have observed smoke and a garbage-like odor near and at their home and smoke emanating and they observed the smoke emanating from Respondent's plant and which contains odorous characteristics.

Mrs. Kurek would testify that she has observed odor and soot at her Melrose Park home; that the odor smells like burnt garbage and is sickening to her and that the odor and soot emanate from Respondent's operation. When the wind from Respondent is in her direction, she is obliged to go inside her house and keep her windows closed and further, that when the wind is from Respondent's direction, soot is found on her laundry.

Mrs. John Holte would testify that she has noticed odor, soot and smoke at and near her home; that it smells like garbage, that she can see smoke from Respondent's stacks and has been subjected to the smoke, soot and odor since 1970 from Respondent's operation. When the wind is from Respondent's direction, the soot gets into her house and the odor makes her sick and nauseous.

Mrs. Pat Bach would testify she has noticed odors and smoke at and near her Melrose Park home, which smell like rotten garbage, all of which are evident when the wind is from Respondent's direction, that the foregoing had been noticed since August, 1971, and that the odor and soot prevent her from hanging clothes out to dry.

Mr. and Mrs. Joseph Annunzio would testify that they observed smoke and odors at and near their Northlake home, both of which emanate from Respondent's operation and to which they have observed for many years, and that they cannot open the windows of their home or stand outside when the smoke and odor blow toward them from Respondent's operation,

The Statement of Fact concludes by stating that Van Der Molen, in its best interests, would discontinue its incinerator operation rather than attempt to install an operation that would meet strict and daily compliance with the statute.

From the foregoing recital, it also appears to be to the best interests of the adjacent neighbors that Van Der Molen discontinue its operation. We are not unmindful of the costs of bringing an incinerator operation into compliance with the relevant regulations. However, we are equally cognizant of the detrimental impact that such an operation may have upon the adjacent communities if the relevant rules and statutory provisions are not complied with. No useful purpose will be served by reviewing the earlier proceedings in this particular case. The operation has been shut down. Respondent represents it

will not resume operation unless it is in compliance with all relevant regulations and statutory provisions. The nuisance impact of the violation of the relevant rules have been admitted. We will assess a penalty in the amount of \$2,500 and direct Respondent to cease and desist its operation until it complies with all relevant regulations with respect to operation of an incinerator.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that:

1. Penalty in the amount of \$2,500 shall be paid to the State of Illinois for violation of Section 9(a) of the Environmental Protection Act and the causing of air pollution and for the emission of particulates in excess of Rule 3-3.232 of the Rules and Regulations Governing the Control of Air Pollution. Penalty payment by certified check or money order shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706 by April 27, 1973.
2. Respondent shall cease and desist the operation of its Melrose Park incinerator unless and until it is in compliance with all relevant regulations and statutory provisions with regard to a public refuse incinerator.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the _____ day of March, 1973, by a vote of _____ to _____.
