

ILLINOIS POLLUTION CONTROL BOARD
February 14, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 73-346
)
ALLEN BECKER, d/b/a)
BECKER'S CHICKEN-EGG FARM,)
)
 Respondent.)

James K. Jenks, II, Assistant Attorney General
for Complainant.
Albert H. Krusemark, Sr., of Krusemark and Bertani,
attorney for Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

The Respondent, Allen Becker, doing business as Becker's Chicken-Egg Farm (hereinafter Becker), operates a farm facility, a portion of which is utilized for the production of eggs, located on Cicero Avenue in Monee, Will County, Illinois.

The Environmental Protection Agency (hereinafter Agency) filed a Complaint on August 16, 1973, against Respondent stating as follows:

- a. "That beginning on or about July 1, 1970, and continuing every day of operation to the filing of this Complaint, Respondent has operated said facility in a manner which caused or allowed the discharge of odors from animal waste and dead and decaying chickens into the ambient atmosphere of the State of Illinois.
- b. That the aforesaid odors are contaminants within the meaning of Section 3(d) of the Environmental Protection Act [Ill. Rev. Stat., 1971, ch. 111 ½, par. 1003(d)] (hereinafter Act).
- c. That the presence in the atmosphere of the aforementioned odors are of sufficient quantities and of such characteristics and duration as to be

injurious to human, plant or animal life, to health or to property, or to unreasonably interfere with the enjoyment of life or property, and therefore causes air pollution as that term is defined in Section 3(b) of the Act.

- d. That the aforesaid discharge of odors so as to cause air pollution either alone or in combination with contaminants from other sources, violates Section 9(a) of the Act. It is Complainant's belief and Complainant hereby alleges and may show that the violations alleged . . . will continue on each day of operation hereafter, unless abated."

A hearing was held on December 18, 1973. In lieu of a full hearing, a written Stipulation And Proposal For Settlement, submitted by the Complainant and Respondent, was entered into the record as a basis for mutual agreement between the parties in this enforcement action. This Stipulation included additional facts and proposed terms of settlement.

Statement Of Facts

Allen Becker operates Becker's Chicken-Egg Farm on Cicero Avenue in Monee, Illinois, and "resides thereon under the authority of a leasing agreement between his father, Clarence Becker, Sr., and the Village of South Park Forest. Clarence Becker, Sr., sold the entire 120 acre farm to New Community Enterprises, Park Forest South, in 1970. Prior to 1970, Clarence Becker, Sr. and his family operated a farm on the premises for approximately 60 years, primarily for the production of corn, oats and beans.

The egg producing portion of the facility began in approximately 1964, under contract with a chicken owner and supplier, with 7,400 chickens. The number of chickens annually maintained on the farm since that time has remained constant at 7,400. The pullet owner and supplier is Roth Hatcheries, Inc., Watseka, Illinois. Under the terms of the contractual arrangement between Becker and Roth Hatcheries, Becker receives 18% of the gross sale of eggs and Roth Hatcheries receives 82%.

A normal egg laying and production cycle is as follows: after a laying cycle, all chickens are removed from the building by Roth Hatcheries and sold for salvage. Roth Hatcheries then supervises the complete cleaning and disinfecting of the interior of the chicken house. A new brood of 7,400 chickens, all twenty weeks of age, is then placed in Becker's chicken house by Roth Hatcheries. Becker then has the duty of daily maintenance of the chickens while Roth Hatcheries supplies the feed. A normal laying cycle for each brood of chickens is 14 months. The remaining chickens are then removed from the building and sold for salvage and the cycle begins again.

However, because of the existing marketing conditions, the present batch of chickens, whose egg producing usefulness will terminate prior to July 1, 1974, will be the last batch of chickens kept at the Becker facility.

After July 1, 1974, New Community Enterprises, Park Forest South, plans to utilize the Becker property for the construction of an Industrial Park.

In 1972, Becker's share of the gross receipts from the egg producing portion of the farm was approximately \$3,000.

Chicken waste, which accumulates at the rate of 1/4 pound per day, per chicken, is retained on the floor of the chicken house in a volume six inches high extending the full length and width of the chicken house. In the past, chicken waste has been removed from the house at a frequency varying between once each month to once each five months. The waste is removed from the chicken house and is hauled to the farm fields in a Brady Manure Hauler. It then is spread on the surface of the land in the fields. As a result of the operation of the egg producing facility, there have been odors produced from the chicken waste which have affected some of the nearby residents on various occasions. There are approximately twelve residents in the nearby area who have experienced odors on the average of two times per week emitted from Becker's farm. The odor has caused some of them to feel nauseous and they have been unable to carry on normal recreational activities in and around their homes on those occasions when the odor is present.

The chicken house is ventilated through the use of six ceiling fans which draw the air through the chicken house and exhaust directly into the outside air without pollution control of any type.

Approximately 74 chickens die each month and are retained in the chicken house in plastic bags. They are periodically removed from the premises by the Star Disposal Company. Occasionally, chickens escape from the chicken house and die in the surrounding fields. Their carcasses, on occasion, have contributed to the odor from the facility. Prior to 1968, dead chickens were disposed of by incineration and by burial. Incineration was discontinued because of complaints by nearby residents. Burial was discontinued when the disposal service was employed."

Terms Of Settlement

"The parties hereby stipulate and agree that the settlement of the above-entitled enforcement action shall be as set forth below. This proposed settlement is expressly conditioned upon, and effective only with approval thereof in all respects by the Illinois Pollution Control Board; however, Becker has proceeded to implement the program hereinafter described during the pendency of this litigation. The parties further stipulate

that all statements contained herein shall be null, void and of no effect and shall not be used in any further litigation in the event that the Board fails to approve the following terms of settlement in all respects:

a. Whenever field access permits, manure will be removed from the chicken house and hauled to the fields and spread at least once weekly.

b. Manure will in all instances be hauled to the west field of the farm, which is the area most remote from the populated area, and shall be applied at a reasonable rate so as not to cause surface or ground water pollution.

c. Whenever soil conditions permit, the manure will be incorporated into the soil immediately after spreading.

d. The manure hauling schedule will be arranged in such a manner as to avoid interfering with outdoor recreation activities of neighbors, and under no circumstances will manure be hauled on weekends or after 6:00 p.m. daily.

e. Manure will be hauled only when the wind direction is prevailing in a direction which is away from nearby residential areas.

f. Egg laying operations will terminate no later than July 1, 1974.

g. All manure will be completely removed from the chicken house within two weeks of the termination of this final laying cycle, but in no event later than July 15, 1974.

h. Nothing herein shall be construed as not allowing Respondent to terminate the egg laying cycle prior to July 1, 1974.

i. In all instances, the Dead Animal Disposal Act will be complied with [Ill. Rev. Stat., ch. 8, par. 149-167 (1971)]

j. Respondent agrees to pay a penalty of \$800 for all violations alleged in the complaint upon the adoption of this stipulation by order of the Pollution Control Board.

k. This settlement in no way provides or exempts Becker from any other obligations it may incur under the laws of Illinois and specifically any future violations of the Environmental Protection Act."

No citizens attended the hearing. There was no citizen testimony concerning odors or the stipulated statement about odors. Violation of Section 9(a) of the Environmental Protection

Act is not proven by the facts submitted. However, the emission of objectionable odors from Becker's poultry farm is stipulated by the parties in the instant case. The Board interprets the Stipulation concerning odorous emissions from Respondent's poultry enterprise as a violation of Section 9(a) of the Environmental Protection Act.

This poultry enterprise is located on land that is in transition between agricultural and industrial use, with economic factors pressing toward the latter. Achieving compliance by liquidation is usually not desirable, but this is being done in the instant case because of current egg marketing conditions, and prior contractual arrangements to construct an Industrial Park on the site after July 1, 1974. During the interim to July 1, 1974, Becker will follow practices to abate objectionable odors, as specified in items a, b, c, d, and e in the Terms of Settlement. We find that these practices are reasonable, as is the requirement in item g that all manure shall be removed from the chicken house promptly after the final laying cycle is completed.

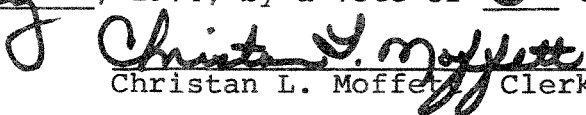
This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent shall follow the compliance program stipulated in items a, b, c, d, e, g, and i under the above Terms Of Settlement.
2. Egg laying operations shall terminate according to stipulated items f and h in the above Terms Of Settlement.
3. Respondent shall pay a penalty of \$800.00 for violations of Section 9(a) of the Environmental Protection Act. Payment of this penalty is to be made within sixty (60) days of the issuance of this Order by the Pollution Control Board. Payment shall be made by certified check to: Illinois Environmental Protection Agency, Fiscal Services, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 14th day of February, 1974, by a vote of 5 to 0.


Christan L. Moffett, Clerk