

ILLINOIS POLLUTION CONTROL BOARD
August 8, 1991

VILLAGE OF MATTESON,)	
)	
Complainant,)	
)	
v.)	PCB 90-146
)	(Enforcement)
WORLD MUSIC THEATRE,)	
JAM PRODUCTIONS, LTD.,)	
DISCOVERY SOUTH GROUP, LTD.,)	
and GIERCZYK DEVELOPMENT, INC.,)	
)	
Respondents.)	

ORDER OF THE BOARD (by B. Forcade):

On July 22, 1991, the Village of Matteson ("Matteson") filed a Petition for Interim Relief. That Petition asserts various continuing nuisance and numerical sound violations and notes an instantaneous radio feedback loop between the sound monitoring technicians and the World Music Theatre (the respondents are collectively called "Theatre") which allows adjusting the sound at the source to produce lower sound values. In its petition Matteson seeks a declaration that the instantaneous radio feedback loop violates both the spirit and the letter of the Board's April 25, 1991 Order. Matteson seeks an Order prohibiting such feedback loop and requiring additional monitoring without such feedback. In the alternative, Matteson seeks clarification of the method for determining improvements at the Theatre. Matteson does not seek an Order compelling any noise reduction activities at the theatre prior to the submission of the August report on sound monitoring. The Board issued an Order on July 25, 1991 which did not dispose of this motion.

On July 29, 1991, Theatre filed a response to the motion opposing any additional relief. Theatre agrees that monitoring personnel use radios to communicate with the Theatre and that such information is used as a noise control option to prevent violations of 35 Ill. Adm. Code 901.102. Theatre asserts that: (1) the radio feedback loop implements the spirit and letter of the Board's April 25, 1991, Interim Order rather than violating it, (2) the Matteson motion contains no competent evidence of violations or severe sound disruption - a prerequisite for interim relief, and (3) the feedback loop does not compromise data collection and serves to avoid noise violations. Matteson asserts that any relief at this time would be premature in that the final report is due August 2, 1991.

Matteson's motion is denied at this time insofar as it requests an Order prohibiting such feedback loop and requiring additional monitoring without such feedback. The Interim Order did not prohibit Theatre from taking actions to control sound

volume in an attempt to eliminate either numerical violations or citizen complaints. Such actions could reasonably include radio communications from a sound monitoring location. The Board takes no position on whether participation in such feedback loop by an "independent consultant" is appropriate. More importantly, the Board does not today evaluate any aspect of the numerical data submitted or the meaning of such data. The impact of a feedback loop on the significance of the data is a matter better left to the parties for evaluation as part of the interaction regarding the final report.

Regarding Matteson's request for clarification, the Board believes the purpose of sound monitoring is adequately explained in the Interim Order:

The Board will also require meaningful and effective noise monitoring by an independent consultant. That monitoring can be utilized to evaluate compliance with existing numerical regulatory limitations on sound emissions, and it also can be used as an effective focal point for evaluating future sound abatement activities which may or may not be necessary.

Interim Order, p. 37

The Interim Order repeatedly identified "turning down the amplifiers" as a method of sound control. The Board cannot foreclose a radio feedback loop as one component of a possible future sound abatement activity.

On August 6, 1991, the final report was filed with the Board. A preliminary review of the report indicates that it does not contain the material required in the Board's Order of July 25, 1991 :

Because of the dispute that has arisen regarding the legitimacy of the data being collected, the Board will require World Music Theatre to ensure that all raw uncorrected data acquired in this monitoring effort be preserved and that copies of such raw data be provided to Matteson and included in the final report. In addition, World Music Theatre shall prepare a log of the time and content of all communications between the monitoring locations and the Theatre, including any actions taken by the Theatre to alter noise levels being recorded, as a result of such conversations.

The Board will allow the Theatre until August 20, 1991 to provide copies of the one-hour Leq spectra (which must include instantaneous values prior to any correction or averaging over time), the log of time and content of any conversation, and any actions taken by Theatre as a result.

On one additional matter, the Board received a public comment in this proceeding on July 30, 1991. That comment consisted of a July 26, 1991 certified letter from the Illinois Environmental Protection Agency ("Agency") to the hearing officer and attorneys for both parties. That letter recited the inclusion of several documents, but no documents were enclosed. On August 5, 1991, a revised version of the comment was filed which did have several enclosures.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 8th day of August, 1991, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board