

ILLINOIS POLLUTION CONTROL BOARD

April 7, 1983

CHARLES DRELICHARZ,)
)
 Complainant)
)
 vs.) PCB 82-90
)
 METROPOLITAN SANITARY DISTRICT)
 OF GREATER CHICAGO,)
)
 Respondent.)

MR. CHARLES DRELICHARZ APPEARED PRO SE.

MR. ANTONI E. WESOLOWSKI AND MR. JACK L. SHANKMAN,
ATTORNEYS, APPEARED IN BEHALF OF RESPONDENT.

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

On July 22, 1982, Charles Drelicharz (Drelicharz) filed a formal complaint against the Metropolitan Sanitary District of Greater Chicago (MSD) alleging violation of Section 9(a) of the Illinois Environmental Protection Act (Act). A hearing was held in this matter on December 15, 1982, and the Board has received no public comment.

The subject of this complaint is MSD's O'Hare Water Reclamation facility located at 701 W. Oakton Street in Des Plaines, Illinois. The complaint alleges violation of Section 9(a) of the Act with regard to emission of odor so as to cause or tend to cause air pollution. The specific violation alleged in this case occurred on the night of June 30, 1982. Drelicharz testified that upon arriving at home, he and his family detected a very foul odor and he immediately called the MSD facility to complain. Drelicharz stated that although he planned to stay outside for a little while, he was unable to do so as the odor was too intense. Drelicharz subsequently contacted his alderman who put him in touch with the environmental office of Des Plaines which in turn sent a complaint form resulting in this action. Under cross-examination, Drelicharz stated that he had made no attempt to determine the source of the odor before making his complaint.

Ms. Joyce Stramaglia testified that she lived a few blocks north of the MSD plant directly across the street from Drelicharz. Ms. Stramaglia testified that on the night of June 30, 1982, she smelled an odor while driving in the vicinity of her home. She described the odor as "like an open sewer to me" and stated that she walked north to a local park where a baseball game was in progress. Noting that the odor persisted, although somewhat lessened from the intensity near her home, she returned home about 11 o'clock at which time she called the sewage plant and asked if there was anything they could do to rid the air of the odor. Mrs. Barbara Drelicharz testified to basically the same facts that Drelicharz had testified to earlier.

Mr. Art Sherman testified on behalf of MSD. Sherman is the manager of the O'Hare plant and indicated that he had checked the records of June 30, 1982, noting that there had been a sudden wind change from north to south approximately at the time here in question. Sherman testified that upon receipt of the complaint the facility commenced application of sodium hypochlorite to the raw sewage which, he states, is standard operating practice. He estimated that there was a lag of one half hour to 45 minutes from the time of application until the odor suppression would be effective. Sherman testified that the facility does not treat the sewage when the wind direction is from the north due to the lack of residences south of the plant and the fact that the plant had never received a complaint from any region south of the plant. Sherman indicated that MSD does not exercise odor suppression continuously due to the cost of the chlorine and the fact that it itself is a pollutant. Sherman estimated that continuous treatment could cost \$180,000 per year or more. It was estimated that \$55,000 worth of chlorine had been utilized already that year to that time, which was the middle of December.

Under cross-examination, Sherman indicated that MSD uses the oxidation reduction potential of the sewage to anticipate the possible production of odors and correlates that with wind direction in order to determine when odor suppression shall be used. He also indicated that odor suppression is initiated in response to a complaint of odors from residents notwithstanding the other information. In addition Sherman testified that they had received four phone complaints that evening.

Drelicharz argues that under the Act, no air contaminants should be discharged into the atmosphere without being given treatment or control necessary to prevent pollution. He feels that the areas generating the odor should be covered somehow, or some method should be developed so that odors can be stopped prior to leaving MSD's property rather than

relying on manual operation of equipment pursuant to wind direction. MSD argues that Drelicharz has not carried his burden of proof as to the odor and the source, pointing out that no one had attempted to see exactly what the source of the odor was. In the alternative, MSD argues that if indeed the odors were emitted by the facility, they have done everything possible to abate the odor and that continuous abatement would be detrimental to the environment and very expensive. Finally, MSD argues that the testimony has shown that there is an attempt by MSD to react to complaints which do come in by immediately starting treatment, whatever the wind direction is.

Although the testimony on behalf of the petitioner is somewhat sketchy, that testimony coupled with the admissions by MSD concerning the number of complaints at the particular time in question is sufficient to find that the odor in question did emanate from MSD's facility. On November 12, 1982, the Board issued an Opinion and Order in a similar matter, Kraus, et al. v Metropolitan Sanitary District of Greater Chicago, PCB 81-76. The Board hereby takes official notice of that Opinion and Order. In Kraus, with regard to the odor portion of the complaint, the Board found that "although there is no question as to the social and economic value of the MSD facility, that value is diminished when the operation of that facility results in air pollution which can admittedly be prevented." In Kraus, as in this case, the character and degree of interference with the protection of the health, general welfare, and physical property of the people is not great. That interference must be balanced, however, against the technical practicability and economic reasonableness of reducing or eliminating the odors. In this case, the technical ability to suppress the odors was demonstrated and the showing of economic unreasonableness is not persuasive. In this case, as in Kraus, the area in which the source is located appears to be the crux of the situation. In Kraus we stated "MSD was well aware of the residential nature of the area when it built the facility. Charged with this knowledge, MSD must be held to a high degree of care not to impose the burden of the odors which are inherent in such a facility upon its neighbors". The Board finds that that statement applies as well to this case. MSD is therefore found in violation of Section 9(a) of the Act by allowing the discharge of odor into the environment so as to cause or to tend to cause air pollution. The Board shall order MSD to cease and desist further violations of Section 9(a) of the Act and shall impose a penalty of \$1,000 for the violation found.

Although Kraus carried a similar order to cease and desist violation, that order was issued subsequent to the violation found here and does therefore not apply in this

case. In Kraus, MSD stated that it was preparing to add the odor suppression chlorine automatically by computer in the future. The Board trusts that MSD will do as it says since it is now on notice in two separate cases that it must cease and desist its violations of the Act.

This Opinion constitutes the finding of facts and conclusions of law of the Board in this matter.

ORDER

1. The Metropolitan Sanitary District of Greater Chicago is found in violation of Section 9(a) of the Environmental Protection Act at its facility located in Des Plaines, Illinois.
2. The Metropolitan Sanitary District of Greater Chicago shall cease and desist further such violations of the Illinois Environmental Protection Act.
3. The Metropolitan Sanitary District of Greater Chicago shall pay a penalty for the violation noted in the amount of \$1,000. Within forty-five days of the date of this Order, the Metropolitan Sanitary District of Greater Chicago shall pay, by certified check or money order payable to the State of Illinois, the penalty of \$1,000 which is to be sent to: Illinois Environmental Protection Agency, Fiscal Services Division, 2200 Churchill Road, Springfield, Illinois 62706.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 7th day of April, 1983 by a vote of 5-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board