

ILLINOIS POLLUTION CONTROL BOARD

April 18, 1974

ENVIRONMENTAL PROTECTION AGENCY, )  
Complainant, )  
 )  
 )  
v. ) PCB 73-225  
 )  
 )  
ALEXANDER RINK AND ROBERT RINK )  
d/b/a RINK PIG FARM, )  
Respondents. )

Richard W. Cosby and Frederic J. Entin, Assistant Attorney  
Generals for Complainant.  
Jerald S. Galowich for Galowich, Galowich, McSteen and Phelan,  
attorney for Respondent.

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

The Environmental Protection Agency (hereinafter Agency)  
filed a Complaint on May 25, 1973, against Respondents, Rink  
Pig Farm, as follows:

- a. That Respondents, Alexander Rink and Robert Rink, own and operate certain facilities, including but not limited to Rink Pig Farm, surrounding fields and attendant equipment, located on the southeast quarter, Section 21, Township 33 North, Range 9 East, Will County, near Wilmington, Illinois.
- b. "That the area within a radius of approximately one mile of Respondents' aforesaid pig farm contains numerous homes and summer cottages.
- c. "That from on or about July 1, 1970, and continuing every day of operation to the filing of the Complaint herein, Respondents have operated their aforementioned facilities in a manner which caused or allowed the discharge of odors into the ambient atmosphere of the State of Illinois, said odors being contaminants within the meaning of Section 3(d) of the Environmental Protection Act (hereinafter Act), [Chap. 111-1/2, Ill. Rev. Stat., Section 1003(d) (1971)].
- d. "That the presence in the atmosphere of said odors is 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, [Chap. 111-1/2, Ill. Rev. Stat., Section 1003(b) (1971)].

- e. "That from on or about July 1, 1970, and continuing every day of operation to the filing of the Complaint herein, Respondents have caused or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, in violation of Section 9(a) of the Act, [Chap. 111-1/2, Ill. Rev. Stat., Section 1009(a) (1971)]. It is Complainant's belief and Complainant hereby alleges and may show, that the emissions and violations alleged in this paragraph will continue on each day of operation hereafter, unless abated after the filing hereof."

A hearing was held on November 26, 1973, during which additional facts were presented and a "Stipulation and Proposal for Settlement" was made a part of the record. At the time of the hearing, Mr. F. J. Entin stated that "At present, this agreement has not been signed by Mr. Jeffrey Diver, who is Acting Director for the Environmental Protection Agency. He is aware of the agreement and what it does contain. There have been a few minor changes today, and he has not seen those, but those will be brought to his attention tomorrow morning, probably, and we expect that his approval will be put on there, but as of yet, he has not formally signed this agreement" (R-5). Rink's signature was not on the first Stipulation.

It was not until April 4, 1974, that the Pollution Control Board received a signed "Stipulation and Proposal for Settlement." This differed in the following respects from the unsigned one that had been entered into the hearing record on November 26, 1973. Paragraph 9 of the signed Stipulation stated that "for purposes of this settlement only, Respondent admits that said odor was present on that day (July 6, 1972) and that same shall be found by the Board to have been in violation of Section 9(a) . . . of the Act. In the unsigned Stipulation, Rink denied alleged violations in the Complaint. In the "Terms of Settlement", item A was changed from "the Board may find Respondents in violation of Section 9(a) . . ." in the unsigned Stipulation, to "the Board shall find Respondents in violation of Section 9(a) . . ." in the signed document. In compliance item B4, wording was added in the signed Stipulation that "Rink shall in no case haul manure on a national holiday. Further, Rink shall use every effort to haul only on weekdays . . ." With regard to a penalty for violations, item C was changed from "Board may require Rink to remit \$500.00 payment" in the unsigned Stipulation, to "Rink hereby agrees that he shall pay the sum of \$500.00 in the nature of a penalty" in the signed document.

The Stipulation indicated that from on or about 1964 to the present date, the tract described in the Complaint was operated by Respondent Rink as a pig farm. Alexander Rink is the owner of the real estate in question, but is not the owner or operator of the business known as the Rink Pig Farm, which is solely owned and operated by Robert Rink, son of Alexander Rink.

It was stipulated that four exhibits, A, B, C, and D be introduced into evidence in this proceeding. Exhibit A is a letter of March 8, 1972, from the Environmental Protection Agency to Mr. Robert Rink, indicating that, on the basis of an Agency inspection of his facility on March 2, 1972, "excessive emission of noxious offensive odors" from his pig farm operation may constitute violations of the Environmental Protection Act.

Exhibit B includes two Agency memoranda, an "enforcement referral" of March 8, 1972, and "supplemental information" concerning the Rink Pig Farm, dated March 9, 1972. The "enforcement referral" discusses the information gathered by the Agency surveillance personnel at the Rink Pig Farm on March 2, 1972. It states that "Mr. Rink was unaware of any recent odor emissions from their pig farm. He said they had been spreading the liquid pig waste material in the fields during the past few weeks. He said that during the summer the waste material is spread on the fields, but an injector is used so that the liquid waste is injected into the soil rather than spread on top of the fields. During the winter they cannot inject into the soil and they have been spreading on top of the fields." Pigs are raised in 3 enclosed buildings with slatted floors over waste pits 4 feet deep. The buildings house approximately 2,500 pigs. The liquid wastes from the pits are hauled by a tank trailer to farm fields and spread over 640 acres owned by the Rinks. "It was explained to Mr. Rink that there has been recent odor complaints by nearby residents, which seemed to be related to spreading the liquid pig wastes on top of the farm fields during the winter time. . . . Residents living in the vicinity of the Robert Rink Pig Farm have complained of sickening, nauseating odor emissions from subject farm since December of 1970. . . . During the summer of 1971, residents in the vicinity of subject pig farm and also people having summer cottages on Kankakee River near subject farm complained of odors from subject farm of such character and duration that they were unable to enjoy their homes and property." The Agency memorandum of March 9, 1972, lists 15 letters received from 11 households during 1971 complaining about odors from the Rink Pig Farm. Four women in households which had complained in writing during 1971 were interviewed, and one of them had indicated on a calendar 13 dates during January and February, 1972, when the odor was "especially sickening and nauseating." Another man indicated that he "noted the odor on March 1, 1972."

Exhibit C is an Agency memorandum of July 24, 1972, which lists 3 telephone complaints received July 18, 1972, alleging objectionable odors caused by the Robert Rink Pig Farm. These complaints were from 3 of the households which had been interviewed in March, 1972, and had written letters of complaint during 1971. One caller had recorded on her calendar 7 dates during the first half of July, 1972, when the pig odor was especially bad.

Exhibit D is an Agency memorandum of March 26, 1973, which describes a visit to the Rink Pig Farm on March 22, 1973, and a discussion there between Messrs. Alexander and Robert Rink and three Agency staff members (Messrs. James Frank, D. R. Bauer, and W. Zenisek) and Mr. F. J. Entin, Assistant Attorney General. Messrs. Alexander and Robert Rink described the pig operation in detail, including volume of production, building sizes, waste storage capacity (73,700 cubic feet or 551,400 gallons), tank trailers for hauling liquid waste, soil injection equipment, and other facilities. Mr. Robert Rink explained that during December, 1972, and January, 1973, they had to spread the pig waste on the surface of fields without injection. It was explained to Mr. Rink that odor complaints were received by the Agency during January, 1973. Mr. Robert Rink estimated that when they receive a second waste injection tank trailer within the next few weeks "they could haul about 100,000 gallons in a ten-hour day and empty the pits in about five or six days." Additional storage capacity was discussed, as were hauling when the wind was in the most favorable direction and use of chemicals to abate odors. Testimony during the hearing (R-9) indicated that this memorandum of the farm visit (Exhibit D) "constituted the major input into the information that Mr. Frank obtained and used in formulating the compliance program, which is contained in the Stipulation."

According to the Stipulation, "the parties agree that immediately after Rink was originally contacted by the Attorney General's office in 1970, and thereafter to this date, Rink has endeavored to eliminate said odors and has and is trying different methods and processes to do so, and has continuously cooperated with the Agency in this matter."

During the hearing on November 26, 1973, Mr. F. J. Entin explained the background of the odor complaint and the alleged violations by the Rink Pig Farm. Mr. James Frank described in detail the stipulated compliance program to abate the objectionable odorous emissions.

Mr. Robert Rink testified that there are approximately 3,000 hogs on his farm at any one time and that he currently produces about 5,000 hogs annually in buildings (R-32). Between 1964 and 1969 he produced about 3,000 hogs annually. There are seven residences in the immediate vicinity of the hog buildings, on the northeast corner of the Rink Pig Farm, "and there are cottages (estimated 20 to 25) across the road that are farther

away, and also another three or four residences across the road" (R-33). . . . "Within two years ago, there was only one family dwelling on the corner of my farm. Now there are about seven" (R-34). Mr. Rink started injecting liquid pig waste into the soil in 1971, when this system was introduced. Since 1971, Mr. Rink has tried three or four chemicals to put on the pit floors to abate odors, but these materials have been ineffective. Recently he has been testing odor masking agents which seem to be more effective (R-39). Respondent's Exhibit 1 is a list of bills totaling \$6,946.87 for chemicals and equipment purchased during 1971-1973 to try to abate hog odors. Mr. Rink said, "I have tried anything I read about on the market. I went to England this year to check and see what they are doing for pollution, and I have gone anyplace in Illinois. I have gone to swine seminars, and I have tried everything, to my knowledge, that is out" (R-38). Mr. Rink submitted two pictures taken on July 2, 1973, (Respondent's Exhibits 4 and 5) to show that his slatted floor buildings and hogs were clean.

Mr. A. A. Wicklein, University of Illinois Agricultural Extension Adviser in Will County, testified that he was called in by both parties, in a consulting capacity, to examine the Rink Pig Farm and to try to develop a solution to the odor problem. Mr. Wicklein stated that Bob Rink has been operating his farm in the customary agricultural fashion for raising pigs (R-46), the pigs are raised in a clean and good animal husbandry fashion (R-47), and Bob attends educational meetings and is cooperative when anything new is to be tried.

Mr. Richard L. Gahm, a manufacturer of livestock equipment from Ransom, Illinois, testified that during the past two years Bob Rink has helped in testing his products for odor abatement. One of the chemicals is a masking agent, and a newer chemical "reacts with the malodor and also adds a pleasant smell" (R-51). An improved distribution system, which seems promising, is being tried.

The Stipulation indicates that Rink "has agreed to a progressive program for improvement of the conditions and operation of said pig farm, and the same has been developed in cooperation with and at the direction of the Agency, it being understood that it is the intention of the parties that Rink shall continue to operate said pig farm and that he performs the terms of this program in the continued operation of said farm, unless the same is otherwise altered, amended or terminated by agreement of the Agency and Rink.

"As a result of the discovery undertaken by the parties and pre-hearing conferences, each party believes that the public interest will be best served by the resolution of the above-entitled enforcement action under the terms and conditions herein provided. In accordance with the procedures for settlement prescribed by Rule 333 of the Illinois Pollution Control Board Rules and Regulations, the parties will offer this statement of facts, stipulation and attached exhibits in lieu of a full hearing."

## TERMS OF SETTLEMENT

The following "Terms of Settlement" are from the signed document that was received by the Board on April 4, 1974.

"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 the approval thereof in all respects of the Illinois Pollution Control Board; however, Rink has proceeded to implement its programs hereunder 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. "That the Board shall find Respondents in violation of Section 9(a) of the Environmental Protection Act for odorous emissions;
- B. "That the Board may enter the following compliance program to abate the odorous emissions:
  1. "Soil injection of all liquid manure unless it is mutually agreed upon by Rink and the Agency that soil injection of the manure during periods of the year when the ground is unfrozen causes more odors than spreading the manure on top of the soil during periods of the year when the soil is frozen.
  2. "Outdoor feed lots be well drained and manure hauled at frequent intervals or be incorporated into the soil.
  3. "Will attempt to reduce odorous emissions from ventilation openings, either forced or natural, from barns by utilizing either chemical deoderizers, carbon filters, or some other technique, with the selected process or substance being used in accordance with the manufacturer's recommended program. Any such process or chemical substance program shall be deemed to meet this requirement if the use of the same is agreed to by the Agency. It is the understanding of the parties at this time that Rink intends to use the chemical substance and manufacturer's program for the product known as GAME, which is a chemical masking agent.
  4. "The manure hauling schedule will be coordinated with wind directions, and both the injection and cleaning of pits shall be done only when, at the beginning of the hauling or clean-

ing day, the wind is blowing in a direction that is away from the residences of the complaining citizens living along I-55 and the Kankakee River. Rink shall in no case haul manure on a national holiday. Further, Rink shall use every effort to haul only on weekdays, unless, due to either the lack of pit storage capacity, or favorable wind direction or probable inaccessability of hauling to or in manure injecting area, it is reasonably necessary to haul on weekends. Also, Rink will spread or inject said manure so as not to otherwise cause an excessive concentration of nitrogen or otherwise cause ground-water pollution.

5. "Rink shall provide an additional 20,000 cubic feet of storage capacity which will bring all existing buildings up to a minimum of 120 days storage. The manure storage structure shall have a covered top to reduce odorous emissions and the design shall be approved by the Illinois Environmental Protection Agency. Rink shall complete construction of said storage facilities by August 15, 1974.
6. "All new facilities built hereafter for pig habitation and feeding that employ a liquid manure system will have an aerobic manure handling system.
7. "In that the use of electrostatic precipitators for odor reduction has not conclusively been established to be effective at this time, the parties agree that if after all of the above steps have been performed, the Agency deems that there is still a sufficient odor pollution condition that may possibly be alleviated or improved by use of said electrostatic precipitators, that it may require Rink to install and operate in one building for research purposes, electrostatic precipitators in the manner recommended by the manufacturer of electrostatic precipitators, and upon being so ordered by the Agency, Rink shall obtain and install said precipitators from manufacturer of his choice within such time thereafter as said equipment is available from the manufacturer. The test shall be for a period of at least six (6) months. The parties agree that if said precipitators effectively reduce and control said odors, then the Agency, on or after June, 1975, may require Rink to install said precipitators in all his forced ventilation buildings within a reasonable time thereafter.

8. "It is agreed by Rink that on or after December, 1, 1973, he shall provide the Agency with a listed telephone number that can be given to any affected citizen so that said citizen can contact Rink directly and register a complaint concerning the subject of the agreement, and Rink shall, after receiving any complaint, endeavour to resolve the complaint. The citizens are instructed that any such calls shall be during regular business hours of 8:00 a.m. to 8:00 p.m. any day, but no calls shall be accepted at other hours.
- C. "Rink hereby agrees that he shall pay the sum of \$500.00, payment to be made within thirty-five (35) days of the date of an Order by the Pollution Control Board. Payment is to be made by certified check to:
- Illinois Environmental Protection Agency  
Fiscal Services  
2200 Churchill Road  
Springfield, Illinois 62706
- D. "That the parties hereby agree to stipulate that Rink shall post a performance bond with the Agency in an amount equal to construction cost of the manure storage structure specified above in paragraph B5, and in a form satisfactory to the Agency. Said bond shall be posted within thirty-five (35) days of the date of an Order by the Pollution Control Board and shall be submitted to the Illinois Environmental Protection Agency" at the address listed above in paragraph C.

The issues involved in this case are not easy to resolve because there is an odor problem which has been difficult to abate, and recent encroachment of residences into this predominantly agricultural area has aggravated the problem. It has been adequately documented that Rink Pig Farm produces odors which are objectionable to neighbors, including some of long standing. However, six of the nearest neighbors have recently moved onto a small tract adjacent to the Rink Pig Farm buildings, long after the pig enterprise was in operation (R-34). Section 33(c)(3) of the Environmental Protection Act requires the Board in making its determinations to take into account the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved. The seriousness of the nuisance must be judged taking into account the industrial and agricultural character of the area (Environmental Protection Agency v. Sangamo Construction Company, 72-79, 6 PCB 83, 87, October 31, 1972). Proper land use regulations would help resolve some of these problems, but the Board does not have jurisdiction for zoning. Reciprocal guidelines are needed to channel both rural and urban development into the most productive and satisfying avenues for our entire society.



Testimony presented indicates that the Rink Pig Farm is operated in a husbandlike manner and that Robert Rink has been and is trying in good faith to find and adopt improved methods to abate objectionable odors from his hog enterprise.

We believe that the compliance program stipulated in item B, above, will help abate air pollution -- the key problem in this case. This is an important objective and responsibility of the Illinois Pollution Control Board. We also believe that items A, C, and D, as stipulated in the above Terms of Settlement, are reasonable and we accept them.

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 Rink Pig Farm violated Section 9(a) of the Environmental Protection Act for odor emissions.
2. Respondent shall follow the compliance program stipulated in item B of the above Terms of Settlement.
3. Respondent Rink Pig Farm shall pay the \$500.00 penalty, as stipulated in item C of the above Terms of Settlement, and shall post a performance bond with the Environmental Protection Agency, as stipulated in item D of the above Terms of Settlement.

Mr. Henss was not present for the vote.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15<sup>th</sup> day of April, 1974, by a vote of 4 to 0.

  
Christan L. Moffett, Clerk