ILLINOIS POLLUTION CONTROL BOARD
October 17, 1972

JOSEPH T. ENDERS	)	
	)	
	)	#72-252
v.	)	
	)	
VILLAGE OF GLENDALE HEIGHTS	)	

JOSEPH T. ENDERS, PRO SE, ON BEHALF OF PETITIONER
PEDERSEN & HOUPT, BY RICHARD V. HOUPT, ON BEHALF OF VILLAGE OF GLENDALE HEIGHTS

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.)

This was a citizen's complaint filed against Respondent in its capacity as owner and operator of the Glendale Heights Sewage Treatment Plant located in the Village of Glendale Heights.

The complaint alleged that Respondent was responsible for the discharge of foam entrainment into the air and the emission of noxious odors, which have taken place on five specified occasions, over a period of months. The complaint further alleged that the effects of the odors included depriving the citizens of the enjoyment of certain outdoor activity such as cooking and eating in their yards, and may constitute a health hazard, and caused air pollution thereby violating Section 9(a) of Title II of the Environmental Control Act (Ill. Rev. Statutes, Ch. 111-1/2, §1009(a)).

The village authorities have experienced difficulty in controlling the emission of odors from municipal sewage treatment plants since the Village was incorporated in 1959. The original unit was replaced with a new facility in 1965. That facility was designed for capacity of 1,000,000 gallons per day. Within five years, that capacity had proved inadequate. (See Environmental Protection Agency v. Village of Glendale Heights, #70-8). The current plant expansion has increased the capacity to 3,000,000 gallons per day and was completed in November of 1971.

Adjacent to that facility is a "polishing lagoon" which was used in the treatment of sewage and controlled by Respondent. The pond was to have been completely filled in and covered by October, 1972 (R.329). At various times, including subsequent to the completion of the existing facility, the lagoon has been used as a dumping ground for various materials including sludge, deposited by Respondent (R. 182).

Respondent has argued that it has committed no violation of the Act because:

1. The alleged violations were not the result of the operation of the treatment facility but instead, emanated from the adjacent lagoon;

2. That any emission of noxious odors or foam was due to the normal "break-in" for the new facility and would be eliminated as soon as the operators became familiar with its operation;

3. That the complaints were from a small minority of citizens who lived adjacent to the plant and impliedly had consented to the "normal" operating odors of a sewage treatment facility; and

4. That the operation of the plant in no way constitutes a health hazard or restricts citizens in use of their property or reduces the quality of life.

We find the manner in which Respondent has operated its municipal sewage treatment facility constitutes a nuisance depriving citizens of the use and enjoyment of their property and violates Section 9(a) of the Environmental Protection Act.

The record contains evidence of allergic reactions attributed to the odors of the plant. Further, the plant's operation has interfered with school classes and the ability of the children to use the outdoor facilities (R.100 and 132). Discomfort seems dependent on the direction of the wind but the responsibility of Respondent should not be obviated simply because only a portion of its citizenry is discomforted at any given time. The present operation constitutes a nuisance.

The pond has been suggested as a possible source of odor. It is being eliminated by landfill, though the procedure used seems no better than that employed to minimize other discomforts to the residents. Testimony by the Environmental Protection Agency indicates that sludge has been allowed to remain on the ground for an inordinate period of time (R. 180-182). Dumping has apparently taken place without receiving permits (R. 198). Respondent's attempt to distinguish violations pertaining to the pond from those pertaining to the treatment facility will not be accepted.

Foam has blown out of the treatment tanks and into the surrounding school and residential area (R. 100, 138, 183 and 329-30). The presence of foam in the streets, on playgrounds or on residential

property may be sufficient, in itself, to constitute a nuisance. Complainant's exhibit number four establishes the existence of such a condition (R. 19-27). We are concerned with the health impact that foam entrained from the aeration tanks may cause. Such foam could contain raw sewage which, upon contact, might be capable of causing a wide range of bacterial and viral diseases. The possibility therefore exists that the foam entrainment may exceed the nuisance situation and pose serious health consequences for the community.

The Village of Glendale Heights must comply with the Environmental Protection Act and the Regulations, not only in the furnishing of adequate facilities, but in their operation as well. While the 1965 addition made by the Village may have the capacity to serve the community for many years in the future, adequacy of capacity is not the only responsibility of Respondent to its citizens and the people of the State. Only through adequate management and operation of the facility will those responsibilities be met.

The record is filled with suggestions by Agency witnesses and city officials as to what can be done to eliminate the present problems and assure adequate, lawful operation in the future (R. 218-235 and 326-364). These proposals range from obtaining a permit for dumping sludge into the pond to improvement of procedures for monitoring the plant's operation. (The plant presently is operated without full-time on-plant supervision.) This would serve to eliminate the effects complained of, if due to over aeration of the tanks and overflow from the splitter box. The sludge pump needs only to be monitored to eliminate spillage. Splash shields on the tanks and throttling down the pump have been recommended. (R. 232).

Respondent is apparently capable of taking these steps as well as installing an alarm and surveillance system, adjusting the flow to the aeration compartment (R. 335-339), monitoring the use of the diffusers (R.342) and balancing the air flow to each tank (R. 355-357).

We suspect that "sloppy housekeeping" is at the root of much of the current problem. This includes a toleration of certain conditions such as those cited in the complaint (periodic odor and foam

entrainment) that are, at the least, negligent. The Environmental Protection Agency has stated that the odor is related to the inadequate policing of sewage splashed over the tanks, and overflowed sludge (R. 178-189, 193). Testimony indicates that certain officials have failed to appreciate that a sewage treatment plant can, and should, operate in such a manner that its operation can be tolerated by those who live in its proximity (R. 189). This facility is closely bounded by residential housing and its tanks abut upon a school playground. In such circumstances, the responsibility is upon the operators to insure the safety of the plant's operation. A "trial and error" approach (R.342) is inappropriate. Because the operation has resulted in a nuisance and potentially endangers the health of the residents, we impose a penalty of $200. Were this not a municipality, a larger penalty would be in order. However, in this case, we recognize that it will be the citizens of Glendale Heights who will bear its burden.

Complainant proposes that we order the Village of Glendale Heights to cover the sewage treatment tanks and scrub the gasses emitted. We feel that such an order would be unnecessarily harsh, if the plant is operated as intended. We expect that such operation will commence immediately. Respondent has indicated in the record that it is aware of the shortcomings of its operation and intends to take steps to correct them (R.269 and 342). Because of the present difficulties in plant operation, we require that Respondent proceed with installation of its planned surveillance system immediately. Steps should be taken to assure the proper operation of all equipment such as the sludge pumps and the splitter box. We will order that a plan for splash shields or other method of eliminating the entrainment of foam be submitted to the Board and the Agency within twenty days and that the condition be abated within 60 days from the date of this Order. We will require that a bond in the amount of $10,000 be filed with the Agency to assure that this program will be undertaken.

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

1. Respondent, Village of Glendale Heights, shall cease and desist the causing of air pollution in violation of Section 9(a) of the Environmental Protection Act from the Glendale Heights Sewage Treatment Plant. Respondent shall cease and desist the causing or allowing of the emission of noxious odors from the plant, pond and other areas under its control and cease and desist the causing or allowing of entrainment of foam and the splashing and dispersal of raw sewage and sludge on or about its premises. The pond shall be fully covered within 20 days from the date of this Order.

2. A penalty in the amount of $200 is assessed for violation of Section 9(a) of the Environmental Protection Act, as found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

3. Respondent is ordered to install and maintain an alarm and surveillance system giving 24-hour mechanical or electronic surveillance, assuring adequate control and operation of all aspects of the treatment plant.

4. Respondent shall submit to the Environmental Protection Agency and the Board a plan for abatement of foam entrainment from its treatment tanks, within 20 days from the date of this Order and shall abate such condition pursuant to such plan as submitted, within 60 days from the date of this Order.

5. Respondent shall cause the preparation of a survey and report by a recognized independent consultant, setting forth the bacterial and viral contribution, if any, from the sewage treatment plant to the abutting school yard area. The survey and report shall be submitted within three months from the date hereof to the Pollution Control Board and the Environmental Protection Agency, and the Pollution Control Board retains jurisdiction of this cause for such further proceedings as may be necessary, based upon said survey and report.

6. Respondent shall post with the Environmental Protection Agency, within 10 days from the date of this Order, a bond or other security in the amount of $10,000, in form satisfactory to the Agency, which shall be forfeited in the event such deadlines provided in paragraph 4 of this Order are not met. The bond shall be mailed to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 17th day of October, A. D. 1972, by a vote of 5 to 0.

Christan L. Moffett