

ILLINOIS POLLUTION CONTROL BOARD
February 26, 1986

CITIZENS OF BURBANK,)
)
 Complainants,)
)
 v.) PCB 84-124
)
 OVERNITE TRUCKING,)
)
 Respondents.)

INTERIM ORDER OF THE BOARD (by B. Forcade):

On August 1, 1985, the Board entered an Interim Opinion and Order, finding that Overnite Trucking ("Overnite") had violated various provisions of the Illinois Environmental Protection Act and Board regulations relating to noise and odor pollution. That Order required Overnite to prepare and submit a report on methods of reducing pollution consistent with the following language of the Opinion:

Therefore, the Board will order Overnite to prepare a report evaluating, to the maximum extent possible, the type and degree of noise and odor reductions possible by changes in operation or construction of noise and odor reduction devices. This report should be prepared by a competent individual or firm, and should evaluate all methods of control (not just those already discussed). Each control option should include anticipated pollution reductions, cost of implementation and an estimate of a reasonable time for implementation.

After some delays caused by mailing difficulties, Overnite filed its response on December 30, 1985, Plaintiffs replied January 29, 1986, citing the general inadequacy of Overnite's Report.

The Board finds Overnite's December 30, 1985, filing meets few, if any, of the requirements of the August 1 Order. While it certainly is appropriate to consult with the County Environmental Control personnel when preparing a report, the report contains no statement regarding who prepared the report nor their technical competence in noise and odor reduction technology. The report fails to quantify the type and degree of noise and odor reductions possible by changes in operation or construction. The report does not evaluate control options beyond those already

discussed, and finally, the report does not, for each control option discussed, include anticipated pollution reductions, cost and reasonable implementation times. The report recites general information already of record found by the Board to be insufficient for a detailed compliance Order.

The rationale for requiring this report was explained by the Board:

Additionally, the Board finds that to curtail all nighttime activities would amount to an Order for Overnite to cease operation and go out of business (R. 98). However, lack of a technologically feasible method of reducing the pollution is not an absolute defense to a finding of violation by this Board. Wells supra, Chicago Magnesium Casting Co. v. Pollution Control Board, 22 Ill.App.3d 489, 317 N.E.2d 689. The Board believes that the report required in today's Order will provide information on specific workable methods of reducing the noise and odor problems to acceptable levels without facing the difficult closure issue.

Unless Overnite provides a meaningful and detailed report on reducing noise and odor pollution that difficult issue must be faced.

The Board will provide Overnite one last opportunity to address this matter in a meaningful way. Overnite is required to file by April 1, 1986, a schedule for the completion of the report on reducing odor and noise pollution at the facility. The schedule shall identify the name and background of the individual or firm that will prepare the report. The schedule shall call for a complete and final report to be filed with the Board not later than June 1, 1986, detailing all reasonable methods of reducing noise and odor pollution, the type and degree of reductions possible with each method, its cost and the time required to implement that method.

Unless the required schedule is on file by April 1, 1986, and unless the final report is on file by June 1, 1986, the Board must ultimately resolve this matter.

Plaintiffs are provided 30 days after service of the final report to provide comments or to request a hearing on the adequacy of the report.

IT IS SO ORDERED.

Board Members J. Theodore Meyer and Walter Nega dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certifies that the above Order was adopted on the 26th day of February, 1986, by a vote of 5-2.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board