

Illinois Pollution Control Board
March 22, 1971

LIPSETT STEEL PRODUCTS, INC.)
 V.)
ENVIRONMENTAL PROTECTION AGENCY) PCB #70-50

Dissenting Opinion by Samuel R. Aldrich

The Illinois Pollution Control Board voted to deny the variance request of Lipsett Steel Products, Inc. I dissent.

Lipsett Steel Products, Inc. has been conducting salvage of railroad cars by open burning on a site south of Granite City, Madison County, Illinois since 1957. The number of cars burned in recent years has ranged from 360 to 486.

Several types of cars are burned, some resulting in more objectionable odors and smoke than others, but all create a serious nuisance to the immediate community. Furthermore salvage by open burning has been illegal since 1965.

On the record, Lipsett made its first move to comply with the law when it filed an ACERP (Air Contaminant Emission Reduction Program) in May 1969. This was granted by the then existing Air Pollution Control Board. The plan called for a one-third reduction in number of cars openly burned (to about 320 cars) by the end of 1969 and a complete halt by the end of 1970. The record shows that the company failed by more than 40 cars to meet its reduced numbers target and that it failed completely to meet its termination target for open burning.

The ACERP contained an additional provision calling for the company to install as soon as feasible any new technology that would permit the mechanical removal of wood without incineration. No such technology was forthcoming.

Lipsett participated in the so-called Booz-Allen Study aimed at reducing the objectionable features of open burning of railroad cars by pre-conditioning the cars with bottom vents to promote more complete combustion. A demonstration in Chicago Heights in June 1970, was described by a Lipsett official as a complete failure.

Lipsett then proceeded to develop control technology involving gas blowers to provide additional air, an enclosure to contain the burning operation, and an after burner for more complete combustion of the smoke from the primary burner.

The company claims 80-95 percent reduction in smoke from the blowers alone but this was disputed by some residents in the neighborhood.

The company predicts completion of installation of its emission control system by June 30, 1971, and anticipates full compliance with emission regulations at that time. The designer of the system claimed 95 percent reduction in emissions but could not guarantee full compliance.

The EPA and several "local citizens" requested that the Board deny the variance request. Two interesting points about the 15 written objections by citizens were: (1) some had addresses several miles from the burning site; and (2) 12 of the 15 were by a high school teacher and 11 of his students.

The Granite City Air Pollution Control Board and the United Steel Workers of America through a local representative recommended approval of the variance.

Granting the variance would unquestionably inflict a certain amount of nuisance pollution upon those who live in the vicinity of the burning site during burning operations, especially when the wind is from the south.

The temptation is to order Lipsett to cease and desist open burning until the emission control installation is completed and to impose a penalty for failure to comply not only with the 1965 regulation but also with its own ACERP. Unfortunately, this approach penalizes both the company, which must carry the responsibility for failure to meet deadlines, but also about 50 workers who had no control over the situation.

Inasmuch as no health hazard is alleged and relief from the nuisance is clearly in sight, the decision should be made in favor of those who will be deprived of their livelihood rather than those who will be exposed to the nuisance. The fact that Lipsett has conducted open burning at this site for 14 years does not give it license to continue for three months but it does help to give perspective to the hardship on the community from granting the variance. We feel that the hardship on the community is bearable in comparison to the hardship on 50 families who will be denied this opportunity to work for a living. The workers may in fact suffer double jeopardy: a) lack of income and b) additional interest on outstanding debts or repossession of goods purchased on credit.

The matter of a penalty will be considered in another hearing.

Order

Based upon all of the factors involved in this case, the variance should have been granted until June 30, 1971, with the following stipulations:

1. Lipsett to proceed as rapidly as possible to install planned emission control technology and to beat the target date if at all possible.
2. No increase in the number of railroad cars burned over the weekly average of the past 12 months.
3. The present level of employment to be maintained since that is an important consideration in deciding in favor of the variance.
4. Gas-fired blowers to be used at all times.
5. Burning to be accomplished as far as is feasible during periods when the wind is from the north. Burning should be avoided in periods of weather that are adverse to emission dispersion. Lipsett to file a plan of feasibility with the Board outlining specific conditions under which burning would be conducted.
6. Lipsett shall post a performance bond, in a form agreeable to EPA in the amount of \$100,000 to assure compliance, bond to be forfeited if the installation of control equipment is not completed by June 30, 1971.

I concur

Samuel R. Aldrich
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I dissent

I Regina E. Ryan, Clerk of the Illinois Pollution Control Board certify that Dr. Samuel R. Aldrich submitted the above opinion on 22 day of March, 1971.

Regina E. Ryan

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 Clerk, Illinois Pollution Control Board