

ILLINOIS POLLUTION CONTROL BOARD  
May 4, 1971

HARDWICK BROS. CO. )  
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 v. ) # 71-17  
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 ENVIRONMENTAL PROTECTION AGENCY )

Dissenting Opinion (by Mr. Currie):

This is a difficult case, and the Board's opinion states the competing considerations fairly and completely. I agree with the Board that Hardwick's proof as to the high cost of chipping and hauling away the brush that is proposed to be burned is thorough and impressive, but I also agree that other alternatives to burning need further exploration. I am pleased that the Board insists upon an investigation of the use of the so-called air-curtain incinerator, which apparently holds much promise for eliminating most of the smoke from wood burning, and upon an effort to obtain more land on which to bury the material. But I think the absence of proof that these alternatives are impracticable means the company has not sustained its burden of proof.

It seems to me we are being asked to bail Hardwick out of a bad bargain. Open burning has been illegal since 1965; a bidder on a contract such as this should know it cannot rely on our granting a variance and should insist on appropriate contract provisions assuring adequate means of disposing of waste wood or full compensation for disposal costs. To me it is highly significant that both the Corps and the contractor fully expected that the wood would be buried along the cleared bank. It is thus admitted that there is an alternative method of disposal, and indeed a preferable one. The only reason it is not to be employed is that someone-- the Corps or the Conservancy District, which obtained the land for the project-- underestimated the amount of land that would be needed for the purpose, and Hardwick did not have time to discover the mistake before making its bid. To grant a variance seems to me to transform this prior miscalculation into an excuse for allowing the project to slough off some of its costs onto the innocent public. For it should be a part of the cost of any such project as this that it dispose of its wastes in such a way as to

minimize pollution. The Corps should bear this cost, and if Hardwick has made a careless commitment to the Corps I do not think we should allow it to pollute as a result. Poverty is no excuse for pollution, and neither is carelessness.

In this day and age there must be ways to dispose of waste without causing large smoke emissions, even out in the country. And I think the record establishes that burying the waste on site is a feasible alternative, with no adequate explanation of the failure to provide adequate land. Burning the brush from six miles of river over a one-year period strikes me as significant pollution, and it ought to be avoided.

I therefore would deny the petition for variance.

  
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David P. Currie