

ILLINOIS POLLUTION CONTROL BOARD

May 3, 1971

BELLEVILLE CONCRETE CONT. CO.)
)
 v.)
)
ENVIRONMENTAL PROTECTION AGENCY)

#71-81

G. HELMKAMP CO.)
)
 v.)
)
ENVIRONMENTAL PROTECTION AGENCY)

#71-82

CITY OF DELAVAN)
)
 v.)
)
ENVIRONMENTAL PROTECTION AGENCY)

#71-90

TOWN OF CHATSWORTH)
)
 v.)
)
ENVIRONMENTAL PROTECTION AGENCY)

#71-95

Opinion of the Board (by Mr. Currie):

These are four more of the unending petitions seeking variances to permit the open burning of trees. All are inadequate under our precedents and our procedural rules, and all are dismissed.

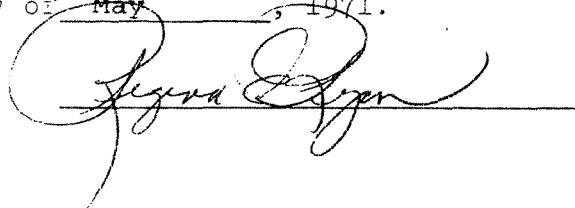
In order that the Board may determine whether or not compliance with the law forbidding burning would impose an arbitrary or unreasonable hardship, our Rule 401 (a)(2) requires the petition to contain "a description of the costs that compliance would impose on the petitioner and others and of the injury that the grant of the variance would impose on the public." The Helmkamp petition contains nothing remotely resembling a statement of either the costs or the benefits of

compliance. The Belleville petition contains on the issue of costs only the conclusion that alternative methods of disposal are "not considered practical," and on the issue of harm to the community from open burning nothing at all. The Chatsworth petition is virtually the same. Both are substantially identical to *Vise Bros. v. Environmental Protection Agency*, #71-13, which we dismissed April 14, 1971. The allegations in the Delavan petition are also inadequate; the City says only that in the absence of a variance it would be necessary to haul brush 30-40 miles to a landfill, which would take "a lot of time and expense," and that burning would take place only when winds would "carry the smoke away from the city." We cannot from these declarations determine whether or not the burning would cause serious problems, as burning of trees sometimes does, see *Calhoun County Contracting Corp. v. Environmental Protection Agency*, #71-14 (April 14, 1971), and we have held before that it is no excuse that it costs more to avoid pollution than to cause it. E.g., *City of Winchester v. Environmental Protection Agency*, #70-37 (Feb. 8, 1971).

It should be added that we have just scheduled hearings on a proposal by the Environmental Protection Agency that would amend the regulations to allow the open burning of trees under controlled conditions on a permit basis, on the ground that alternative methods of disposal are less attractive overall than is open burning. Persons in the position of these petitioners and wishing to burn trees in the future are requested to submit evidence in the coming hearings in order that the Board may reexamine the regulation on the basis of a complete record.

The petitions are dismissed. This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan, certify that the Board has approved the above opinion this 3 day of May, 1971.

A handwritten signature in cursive script, appearing to read "Regina E. Ryan", is written over a horizontal line.