

ILLINOIS POLLUTION CONTROL BOARD  
August 3, 1978

ATWOOD GRAIN & SUPPLY CO.,                    )  
  )  
  )                    Petitioner,                    )  
  )                    )  
  )                    )                    vs.                    )                    PCB 77-279  
  )                    )  
ENVIRONMENTAL PROTECTION AGENCY,            )  
  )                    )  
  )                    )                    Respondent.                    )

MR. RAYMOND LEE APPEARED ON BEHALF OF THE PETITIONER.  
MR. STEPHEN T. GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED  
ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

On October 28, 1977 Petitioner filed a petition for a continuation of a previous variance, PCB 76-62, 23 PCB 133 (1976). On November 10, 1977 the Board ordered that more information was needed. On December 16, 1977 this information was filed. The Environmental Protection Agency (Agency) filed a recommendation on January 13, 1978. A hearing was held in this matter on March 20, 1978. Although citizens were present, none testified. Several letters of objection were received by the Board. None of these objections were received within 21 days after the December 16, 1977 filing.

There is a discrepancy between the variance petition and the recommendation and the earlier variance concerning the location of the chutes in question. The Agency recommendation also appears to be in conflict with the variance petition and the hearing concerning the amount of time the chutes and augers are used (Pet. at 5, Rec. at 3, R. 19-21). The Board further notes the Petitioner already has a variance (PCB 76-62, 23 PCB 133 (1976)) for its augers until March 1, 1981 granted under the same conditions as recommended now by the Agency; consequently there is no need to give further consideration to the augers. In considering the discrepancies the Board will consider the sworn testimony given at the hearing as the determining factor concerning the location of the chutes and the hours of use.

Petitioner operates an elevator in the rural community of Atwood, Illinois, which has a population of 1100. The company operates as a cooperative serving some 350 farm families who farm approximately 30,000 acres of farm land in western Douglas County, eastern Piatt County, and the northeastern Moultrie County area. The company has 306 patron-stockholders.

Currently the company has an investment in plant and equipment which has a replacement cost of approximately \$2,400,000. The storage capacity of the elevator and other storage facilities is 1,060,000 bushels. The company employs eight employees with a payroll of \$153,000. For the fiscal year ending June 30, 1977, the company handled over one and one-half million bushels of grain valued at \$5,600,000. Figures for the fiscal year ending June 30, 1978 are estimated to be well in excess of the quoted amounts. This business, located in Atwood since its organization in 1918, is the largest business in the Village.

In 1975 the five steel chutes at the east end of the site were replaced at a cost of approximately \$12,500 (R. 11). These chutes have a useful life of five to eight years (R. 11). Petitioner contends that a substitute for the present chutes that would adequately attenuate sound cannot be purchased. The Agency does not agree. The Agency is of the opinion that wrapping the chutes is a technically feasible approach to reducing grain chute noise. This method was used by Atwood on several of their other chutes. The installations are the first in Illinois and have not proved entirely satisfactory. A variance would permit additional time to further monitor the experimental chutes both from a noise attenuating and weathering basis (p.4). The Agency estimated the cost of lagging these chutes at \$8,000 to \$10,000.

The chutes in question are in use 20 to 25 days per year (R. 13). The Agency's investigation shows that one household is affected severely, with approximately 10 other households affected to succeeding lesser degrees. At 1000 feet the chute and auger sound level is below the expected ambient level. The use of the chutes does not occur during nighttime hours. The Agency recommends a variance be granted from Rules 102 and 202 with certain conditions.

The Board does find that a variance is warranted in this case. Petitioner, as noted in PCB 76-62, has spent a substantial sum of money in wrapping chutes and moving equipment to attenuate its noise. The cost of wrapping the chutes is a substantial part of the original cost of the chutes, which have already been used nearly half their useful life. Several of Petitioner's neighbors will suffer from the noise levels, but considering the relatively short time period of use and the large cost involved the Board finds that a variance from Rules 102 and 202 should be granted subject to the Agency's conditions.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the order of the Pollution Control Board that Atwood Grain and Supply Company is granted a variance from Rules 102 and 202 of Chapter 8, Noise Regulations as to the operation of the elevator leg and five associated chutes located west of the bin known as Bin No. 2 at the east end of the elevator site (as shown on the site plan attached to the petition for variance and designated as Site Plan No. 1) up to and including March 1, 1981, or the replacement of the chutes whichever comes first upon the following conditions:

1. That except for sounds emitted by said elevator leg and five associated chutes and said portable augers, sounds emitted by Petitioner shall at no time exceed the numerical limits of Rule 202.
2. That the operation of the said elevator leg and five associated chutes shall at no time emit more noise than that shown in Petitioner's Exhibit No. 1, being measurements taken on October 5, 1977.
3. That said elevator leg and five associated chutes shall not be operated between the hours of 10:00 p.m. and 7:00 a.m. local time.
4. Within forty-five (45) days of the date of this Order, the Petitioner shall submit to the Division of Noise Pollution Control, Enforcement Section, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, an executed Certification of Acceptance and Agreement to be bound to all terms and conditions of the variance. The forty-five day period herein shall be stayed during judicial review of this variance pursuant to Section 31 of the Environmental Protection Act. The form of said certification shall be as follows:

CERTIFICATION

I (we), \_\_\_\_\_ having read the Order of the Pollution Control Board in PCB 78-141, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

\_\_\_\_\_  
SIGNED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE  
31-171

Petitioner's variance request for its augers is dismissed as unnecessary in light of PCB 76-62.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3<sup>rd</sup> day of August, 1978 by a vote of 5-0.

Christan L. Moffett /RD  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board