

ILLINOIS POLLUTION CONTROL BOARD

July 10, 1975

TERRY PETRY d/b/a/)
TERRY PETRY GRAIN ELEVATOR,)
Petitioner,)
)
v.) PCB 75-197
)
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On May 8, 1975, Terry Petry filed a Petition For Variance with the Illinois Pollution Control Board (Board). Petitioner stated that the Terry Petry Grain Elevator, located in downtown Rochelle, Illinois, was destroyed by fire on April 2, 1975. Petitioner wants to remove the waste materials and damaged grain to a family farm located approximately four miles northeast of Rochelle. The material weighs approximately 900 tons. No petroleum products are involved. Metal materials will be separated for salvage before transport. The remaining 660 tons of unpainted wooden materials and 15 tons of grain will be hauled to the farm site where the open burning operations will take place. The remains will be buried at the site. Petitioner estimated it would take two weeks to burn and bury the materials from the time the Board approved the Petition For Variance.

Mr. Petry stated that the Rochelle Fire Department is demanding immediate removal of the material, because it represents a fire hazard to the downtown area. The City is demanding immediate clean-up to avoid potential odor and rodent problems. Petitioner estimated it would cost in excess of \$6,000 if he were forced to dump the materials in the city sanitation area. Petitioner stated that he cannot afford such an expense. In a letter to the Illinois Environmental Protection Agency (Agency) on June 18, 1975, Petitioner stated: "My financial status at this time deems it impossible to borrow money to enable me to pay both the landfill costs and transportation costs. If the proposed burning site . . . is approved, I could substantially reduce the cost of this clean-up operation." Petitioner noted that the destroyed facility was not a commercial enterprise, but was used exclusively for handling, drying, and storing corn and soybeans in his farming operations.

The Agency filed a recommendation of denial on June 10, 1975. The Agency pointed out that Mr. Petry is requesting a variance to exceed the open burning limitations of Rule 502(a) of the Air Pollution Regulations (Chapter Two) for a total period of twelve hours. Based upon the standard emission factor applicable to the open burning of wood, the Agency estimated that the following emission rates would occur from the proposed activities:

Particulates	17 pounds/ton
Carbon Monoxide	50 pounds/ton
Hydrocarbons	4 pounds/ton
Oxides of Nitrogen	2 pounds/ton

However, since Petitioner is seeking a variance from Rule 502(a), not the emission standards contained under other rules of Chapter Two, such data are informative but not crucial to our decision.

The Agency noted that the nearest residents to the proposed burning site are one-half mile to the north and the south. Neither resident objects to the proposed open burning.

On June 20, 1975, the Agency received a letter from Blackhawk Production Credit Association (PCA), which is the financing organization for Petitioner's business loans. PCA emphasized that 1974 was not a good year for the farming industry and that PCA was "not favorable in any way . . . in increasing the size of his [Petitioner's] loan by an additional \$7,000 to \$8,000 to put this material in the city landfill." While PCA noted that the facility had insurance which did reduce the loan balance, valuable working assets were destroyed that were important in the Petitioner's collateral portfolio. Attached to the PCA letter was an Agency cover letter which stated: "The Agency will be reviewing the information to determine whether a change in the Agency Recommendation is warranted."

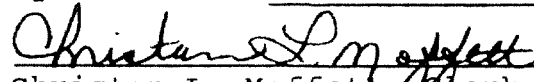
We grant the variance. First, this variance for open-burning will be short-lived and solves a problem that will not reoccur. Second, the adverse environmental impact of the variance grant is not excessive for the area involved and the impact will be temporary. Third, area citizens are not opposed to the variance grant. Fourth, this case is different from those in which the financial hardship alleged is merely a limit on increased profits. Here the hardship cannot be measured simply in dollar losses, because the record indicates that increased costs could jeopardize the Petitioner's livelihood. Based on the facts of this case, it would impose an unreasonable hardship on the Petitioner to deny the variance.

ORDER

Terry Petry, d/b/a Terry Petry Grain Elevator is hereby granted a variance from Rule 502(a) of the Air Pollution Regulations for a period of two weeks following his receipt of this Opinion and Order in order to burn and bury approximately 675 tons of grain and unpainted wood products at a family farm located four miles northeast of Rochelle, Illinois.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of July, 1975, by a vote of 5-0


Christan L. Moffett, Clerk
Illinois Pollution Control Board