

ILLINOIS POLLUTION CONTROL BOARD
May 15, 1975

BUEHNE QUARRY COMPANY, INC.,)
)
) Petitioner,)
))
)) vs.) PCB 75-71
))
ENVIRONMENTAL PROTECTION AGENCY,)
))
) Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Henss):

Buehne Quarry Company, Inc. filed its Petition for Variance seeking relief from Rules 103(b) (operating permits), 202(b) (visual emission standards) and 203(a) or 203(b) (particulate emission standards) of the Air Pollution Control Regulations. Petitioner seeks variance for a period of one year in order to install a dust control system.

Buehne operates a limestone quarry and crushing facility near Breese, Clinton County, Illinois. The quarry operation consists of primary, secondary and tertiary crushing of limestone rock. The quarry and crushing plant produce a maximum of 125 tons per hour of stone with the main products being agricultural limestone, CA 6 and CA 16. Normal production consists of one eight-hour shift per day of operation.

Although the parties are not in agreement as to the amount of particulate matter being emitted from the operation, Petitioner plans to install a liquid spray dust suppression system to reduce particulate emissions. A construction permit for the spray system was granted by the Agency in May 1974. Buehne states that the system has not been installed to date due in part to the limited progress made by an engineer retained to design the system. In December 1974 Buehne terminated the services of its engineer and retained a firm of consulting engineers located in Decatur.

Petitioner does not have an operating permit. In October 1973 and December 1974 the Agency sent letters to Petitioner warning of the possibility of enforcement proceedings due to the failure to obtain the required operating permits. Petitioner states that it received a letter from the Agency on January 16, 1975 advising Buehne to give serious consideration to the filing of variance.

On April 16, 1975, after this matter had been submitted to the Board for decision, the U. S. Supreme Court handed down its opinion in Train, Administrator, Environmental Protection Agency, et al vs. Natural Resources Defense Counsel, Inc. et al (No. 73-1742). In brief, the U. S. Supreme Court ruled that the Clean Air Act authorizes States to grant variances from implementation plan requirements if such variances do not interfere with the attainment or maintenance of national ambient air quality standards.

Illinois is required to attain the ambient air standards by July 31, 1975 but the Illinois Implementation Plan provides for the grant of variances in accordance with the provisions of the Illinois Environmental Protection Act. Therefore, this Board can grant individual variances beyond July 31, 1975 if the variances do not interfere with the attainment and subsequent maintenance of national ambient air quality standards. (See: Opinion and Order of the Board in Texaco, Inc. vs. EPA, PCB 75-59, May 8, 1975).

The record in the instant case is not sufficient for the allowance of Buehne's variance petition. There is no statement, testimony or data in the record from which we could determine whether the grant of this variance would interfere with the attainment or maintenance of national ambient air quality standards. Therefore, the Board must dismiss the petition without prejudice.

If Buehne chooses to submit a new petition for variance, such petition must address the air quality issue as the Board must determine whether the variance is allowable under the recent U. S. Supreme Court decision.

This Opinion constitutes the findings of fact and conclusions of law of the Illinois Pollution Control Board.

ORDER

It is ordered that the variance petition of Buehne Quarry Company, Inc. be dismissed without prejudice.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of May, 1975 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board