ILLINOIS POLLUTION CONTROL BOARD April 10, 1975

CITY OF FULTON,	Petitioner,)	
v.)	PCB 74-490
ENVIRONMENTAL PR	OTECTION AGENCY, Respondent.)	

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

This petition for variance was filed by the City of Fulton on December 30, 1974. Fulton seeks to continue operating a sanitary landfill without a permit from the Environmental Protection Agency. Although the petition cites Section 21(c) of the Environmental Protection Act as the Section from which variance is sought, we interpret it more properly as a request from relief Section 21(e) of the Act and Rule 202(b)(1) of the Solid Waste Regulations.

Fulton claims that its landfill is in compliance with all other appropriate regulations and that Agency inspection reports have shown the operation to be satisfactory. In response to our January 3, 1975 Order for Additional Information, Fulton indicated, in a letter filed January 20, 1975, an intent to operate the site for only an additional six to nine months, after which time it would be landscaped into a park or playground. Fulton also claims that it applied for a permit on a new site in June, 1973 at a total cost, including information gathering and land acquisition, in excess of \$2,500.00.

If a variance is not granted, Fulton claims that its refuse would have to be hauled to the nearest approved landfill - a distance of 16 miles one way. This would entail an additional annual expense of \$13,000 to \$14,000, compared to a 1974 expense of \$23,422.00.

As the Agency has failed to file a Recommendation in this matter, we must necessarily accept the facts as alleged in the petition. Since there is no indication that the landfill is environmentally unsound, and since compliance with the permit requirements would impose an unreasonable hardship, we grant the requested variance for a period running from the date of the petition, December 30, 1974, to nine months subsequent to the filing of the response to our Order for Additional Information - October 20, 1975.

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

ORDER

The City of Fulton is granted a variance from Section 21(c) of the Environmental Protection Act and Rule 202(b)(1) of the Solid Waste Regulations from December 30, 1974, until October 20, 1975.

IT IS SO ORDERED.

Illinois Pollution Control Board