

ILLINOIS POLLUTION CONTROL BOARD

January 23, 1973

JERRY R. FRYE, Petitioner,)
)
 vs.) PCB 72-461
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

Frederick Patton and Richard W. McCarthy Attorneys for Petitioner
Larry R. Eaton, Assistant Attorney General for the EPA

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

On October 17, 1972 we ordered Jerry Frye to close his landfill if he had not obtained a permit for its operation in 45 days, (PCB 72-243). On December 1, 1972 the date by which Petitioner was to have the required permit, he requested a 90 day extension of time for the reason that the engineering firm he had employed to perform the required soil testing had been unable to complete the testing during the allotted time.

The Environmental Protection Agency contacted the engineer to learn the reason for the delay. The engineer stated that "rainy weather had made it impossible to obtain the soil borings for well over one month". Nevertheless the EPA has recommended that the extension be denied and that the Petitioner be required to take any refuse to a site located approximately 20 miles north of the Petitioner's site. This other site is owned by another disposal service and has been issued a permit by the EPA.

Upon further reflection we believe that our original time limitation of 45 days was too short. We could have anticipated that adverse weather conditions at this time of year might make it difficult to obtain the necessary soil borings within the time allotted. We will allow an additional 90 days to comply with the permit requirement.

Petitioner Frye has engaged the services of an engineering firm and has attempted to comply with the Board Order. We do not feel that he should be forced to cease operations at this time because of soil conditions brought on by rainy weather--a condition over which he had no control. The fact that another disposal area is located 20 miles away would not necessarily mean that Jerry Frye would have access or be allowed to deposit refuse at that site or

that he would have the capability of maintaining the service to his 11,000 households if we deny this extension of time.

ORDER

It is ordered that:

1. Petitioner be granted an additional time period to March 1, 1973 to obtain an EPA permit for the operation of his landfill. If a permit is not obtained by this date, Petitioner will close his landfill and shall not resume operations until a permit is obtained from the EPA.
2. Parts 2 and 3 of our Order shall remain in full force and effect.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 23rd day of January, 1973, by a vote of 3 to 0.

Christan L. Moffett