

ILLINOIS POLLUTION CONTROL BOARD  
May 17, 1972

TRADER'S TREE SERVICE                    )  
  )  
                  v.                        )           PCB 72-96  
  )  
ENVIRONMENTAL PROTECTION AGENCY    )

OPINION OF THE BOARD (by Mr. Kissel):

Trader's Tree Service ("Trader's") is engaged in the tree removal business in the City of Dixon, Illinois and from 1967 to now has leased a parcel of land about one-half mile from the Dixon City limits as a site for the disposal and burning of trees which Trader's has removed from Dixon. The boundaries and location of the site are shown in Exhibit #1 submitted by Trader's as a part of its petition for variance. Presently, Trader's has a large pile of tree trunks, limbs and brush on the site which are piled in an area measuring about 300 feet by 30 feet and at a maximum height of 5 feet. The pile of brush and trees is shown in a photograph submitted by Trader's as Exhibit #2 and attached to the petition for variance.

Trader's seeks a variance from the present Open Burning Regulations which prohibit the burning of landscape waste within an area one mile from any municipality having a population of more than 1000. Chapter 3, Air Pollution, Part IV Open Burning, Section 402(a). The regulations do allow the open burning of landscape waste under certain conditions if a permit is received from the Agency. Supra, Section 404(a)(4). But here, Trader's applied for a permit and was denied one by the Agency because the open burning will take place within one mile of a municipality of over 1000 population. The Agency has no authority under the regulations to issue a permit under those conditions where an air curtain destructor or equivalent control device is not used. Supra, Section 404(a)(4)(i). Trader's request here is to be allowed to burn the large pile of brush and trees, which is estimated to take about 4 days. After that burning, Trader's will no longer burn on this site.

Trader's claims that if it does not get the right to burn it will be a severe hardship because it will cost Trader's about \$7,500 to remove this material to a landfill site. See Exhibit #3 attached to Trader's petition for variance. Trader's also says that the injury to be suffered by the public will be slight because the area is "sparsely settled" and the time of burning would be "short".

The Agency filed its recommendation with the Board on May 3, 1972, which requested that the Board deny the variance. The Agency asks for the denial on two grounds: first, it claims that Trader's has alternative methods of disposal available to it (i.e., use of an air curtain destructor, shredding and cutting for resale as firewood) at a reasonable cost; and second, the Agency attaches to its recommendation four letters (one of which is signed by 21 people) asking that the Board deny the variance because of the fire hazard created and the bothersome smoke emitted. One letter in particular is very strong against the granting of the variance, and it is from the local fire chief who says:

". . . I must vigorously protest a variance being issued to the Trader Tree Service. . . ."

It goes on to say that burning in this area has caused "numerous fire calls". The other letters are of similar import and talk also about the smoke from the open burning "hanging in the trees". (See Exhibit #2 attached to the Agency's recommendation).

In deciding variance cases such as this the Board must employ a delicate balancing process. On the one hand Trader's claims the cost of removal of the brush is high and that the smoke from the open burning would cause no problem. On the other hand, the Agency and the local citizens say that alternatives are available at a reasonable cost and that the open burning not only is bothersome because of the dense smoke, but that in this location it creates (and has created) a fire hazard. In this case, we must decide in favor of the Agency and the people. Open burning has been illegal in Illinois for some time and it can be, as it would be in this case, a very bothersome nuisance to the surrounding community. The cost of alternatives we know is low, even if we assume it will be \$7,500. The price of clean air and the lack of a fire hazard which may burn the wood around the site, is worth the cost.

The variance is hereby denied.

IT IS SO ORDERED.

I, Christian L. Moffett, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this 17<sup>th</sup> day of May, 1972, by a vote of 4-0.

