

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1972

CITY OF OLNEY)
)
) #72-205
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.)

On May 15, 1972, the Board received a letter from the City of Olney captioned "Application for Permit" to conduct open burning of trees within the City of Olney. On May 17, 1972, we entered an Opinion and Order stating it was not clear from the letter whether the City was seeking a permit in the first instance, perfecting an appeal from a permit denial, or seeking a variance from the open burning regulations.

Construing the communication as either an appeal or a variance application, we asked the City to submit information with respect to alternatives available for disposition of trees and brush, the cost incurred in pursuing the various alternatives and what effect each would have on the surrounding community.

On May 31, 1972, we received a further communication from the City of Olney in response to our order, stating that the alternatives available were first, to haul material to be burned to a privately-owned landfill which does not possess a State permit, or to burn the trees and brush in a city dump. Costs for each of the alternatives were set forth. Petitioner believes that no adverse effects on the community would result from burning in the city dump, the first alternative not appearing feasible. However, neither communication from the city makes reference to the possible use of an air curtain destructor, which evidence in previous hearings has shown to be a most suitable means of disposing of landscape waste. (See "In the Matter of Open Burning Regulations, #R70-11," Opinion dated September 2, 1971.) Under some circumstances, the use of this facility would obviate the need of a variance and under other circumstances, would serve as a suitable basis for the granting of a variation. Failure to make reference to an air curtain destructor's availability or the absence thereof, makes petitioner's second response deficient.

Accordingly, we will keep this proceeding open for the submission by petitioner, within ten days from the date hereof, of

information with respect to its possible use of an air curtain destructor or the establishment of reasons why such facility would not be available for resolution of petitioner's problem. Such further submission shall be accompanied by a waiver of the application of Section 38 of the Environmental Protection Act requiring Board action on variance applications within 90 days from the date of filing of the petition, such waiver to extend the time for the Board's decision to 90 days from the receipt of the additional information required to be submitted pursuant to this Opinion and Order, as above set forth.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on the 6th day of June, 1972, by a vote of 4 to 0.

Christan D. Moffett