

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1982

OLIN CORPORATION,)
a Virginia Corporation,)
)
Petitioner,)
)
v.) PCB 81-117
)
ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Respondent.)

LYNN N. HAAS, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE PETITIONER.
HEIDI E. HANSON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.
OPINION AND ORDER OF THE BOARD (by I. Goodman):

This matter comes before the Board upon a Variance Petition filed on July 16, 1981 by Olin Corporation (Olin) which requested a Variance from Rule 502 of Chapter 2: Air Pollution Control Regulations (Chapter 2) to allow the open burning of explosive contaminated buildings, decontamination of explosive contaminated equipment, and burning of propellant and pyrotechnic materials. On August 7, 1981, the Illinois Environmental Protection Agency (Agency) filed an Objection and Request for Hearing. On August 10, 1981, Olin filed an Amended Petition for Variance. On September 22, 1981, the Agency filed a Motion for Leave to File Recommendation Instantly and its Recommendation. The Agency's motion is hereby granted. The Agency recommended that the Variance be granted, subject to various conditions.

On December 15, 1981, a hearing was held* at which the parties submitted a stipulation of facts setting forth some of the proposed terms and operating conditions under which Olin proposed, subject to Board approval, to conduct the open burning. The Board hereby strikes paragraphs 5, 6 and 7 of the proposed stipulation as not appropriate in a variance proceeding. Insofar as the stipulation is one of facts and a proposed compliance plan, it is acceptable although the facts are the same or contained in the rest of the record. In a variance proceeding, however, findings concerning the issues of hardship and environmental harm are the prerogative of the ultimate trier of facts and are not an appropriate subject for stipulation between the parties.

*Because this variance, if granted, may constitute a revision to Illinois' State Implementation Plan (SIP), the State must, therefore, prior to submitting it to the USEPA Administrator as a SIP revision, conduct a public hearing in accordance with 40 CFR 51.4.

Olin manufactures propellant and pyrotechnic devices for the U.S. Department of Defense in a plant near the City of Marion, Williamson County, Illinois. This facility employs about 500 people and generates approximately \$50 million in annual revenues. (Pet. 1). The area surrounding Olin's manufacturing plant is a U.S. Government Wildlife Preserve known as the Crab Orchard National Wildlife Refuge. (Pet., Ex. A). Although Olin presently has a special incinerator and retort for the safe destruction of almost all of the explosive waste generated at its Marion facilities, a variance is requested to allow the open burning of unusual explosive waste, generated and accumulated over many years of manufacturing operations, which cannot practically or safely be incinerated by means of existing equipment and cannot reasonably be disassembled because of the hazards to employees associated with the presence of highly explosive materials. This situation has previously come before the Board in Olin Corporation v. E.P.A., PCB 76-165, August 12, 1976, 23 PCB 331 (1976).

Olin wishes to burn two buildings, obsolete production equipment, and 10,050 lbs. of solid propellant and pyrotechnic materials. Total estimated emissions are 482 lbs. of particulate matter and 4,158 lbs. of carbon monoxide. (Pet. 8). At the hearing, the manager of the wildlife refuge testified that the U.S. Fish & Wildlife Service had no objections to the proposed open burning. (R. 7-8). Similarly, the Agency has concluded that there will be no hazardous emissions problem from the burning and anticipates no violations of the Federal Clean Air Act or ambient air quality standards. (Rec. 3). Williamson County is currently classified as an attainment area for CO and, while the county is deemed a nonattainment area for TSP, there have been no monitored TSP primary standard violations for the last three years. (Rec. 3). To avoid visibility problems at the nearby Bi-County Airport, the Agency has recommended that Olin take wind direction carefully into account when conducting its open burning.

Olin has thoroughly evaluated alternative compliance methods such as desensitization through chemical treatment, landfilling, and incinerator burning, but has determined that open burning and flashing in open fires, the customary method for treatment of explosive wastes, is appropriate in this instance. (Pet. 13-14). Olin will take all necessary measures and safety precautions during the proposed open burning of explosive wastes to protect all human, animal, and plant life in the immediate vicinity in that: (1) the burns will occur on three separate days; (2) burning will only be conducted during daylight hours on clear days when wind velocity is low, and (3) adequate firebreaks, fire equipment and experienced personnel will be provided. (Pet. 14; Am.Pet. 1).

The Agency has recommended that the Board grant the requested variance, subject to specified conditions. The Board finds that denial of the variance would impose an arbitrary or unreasonable hardship upon the Petitioner, and agrees with the Agency's conclusion that the hardship of dismantling potentially explosive

buildings and equipment outweighs the minimal carbon monoxide and particulate increases due to the three burns. Accordingly, the Board will grant the requested variance, subject to conditions which are delineated in the Board's Order.

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

ORDER

The Petitioner, the Olin Corporation, is hereby granted a variance from Rule 502 of Chapter 2: Air Pollution Control Regulations to allow the open burning of two buildings, obsolete production equipment, and solid propellant and pyrotechnic materials within 90 days of the date of this Order, subject to the following conditions:

1. Olin Corporation shall conduct the burns in accordance with its standard operating procedure (specified in Exhibit A of the Amended Petition for Variance) and with the other representations made as to wind direction, safety, and pollution control measures listed in its petitions.
2. Olin Corporation shall take all necessary measures and safety precautions during the open burning of explosive wastes to protect all human, animal and plant life in the vicinity from any harm.
3. Olin Corporation shall burn only while there is a wind direction which will minimize impacts on the Bi-County Airport, nearby residences, and heavily travelled roads.
4. The Bi-County Airport shall be notified by the Petitioner before each burn.
5. Burning shall be conducted only during weekdays and the Petitioner shall notify the Agency's Mt. Vernon, Illinois office before each burn begins.
6. Olin Corporation shall not begin burning until the Agency's Land Pollution Control Division has approved a landfill to accept the burn out debris.
7. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Enforcement Programs, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-117, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner


By: Authorized Agent

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 17th day of February, 1982 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board