

ILLINOIS POLLUTION CONTROL BOARD

April 18, 1974

DONALD McELROY, INC.,)
Petitioner,)
)
v.) PCB 74-60
)
ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

Patrick J. Phillips, attorney in behalf of Petitioner.
Michael Ginsberg, attorney in behalf of Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On February 6, 1974, Donald McElroy, Inc. filed a petition for variance for sixty (60) days from Rules 202 and 203 of Chapter 2, Air Pollution Regulations. Petitioner has a facility near Odell, Illinois, where X-ray and photographic film is burned to reclaim silver. The burning is done in steel drums with no pollution control equipment. Emissions include smoke, black soot, ash, and other contaminants.

The Illinois Pollution Control Board (hereinafter Board) previously granted Petitioner a variance (Donald McElroy, Inc. v. Environmental Protection Agency, PCB 73-332, November 15, 1973) to November 30, 1973, for this same facility. This was done to permit orderly transfer of salvage operations to a proposed new silver recovery incinerator at North Chicago, Illinois, (where it has only storage) and cessation of open burning and closure of the Odell facility. Petitioner closed the Odell facility on November 25, 1973. However, construction of the new incinerator near its North Chicago storage facility has been deferred because estimated costs increased from \$50,000 to \$125,000. Also Petitioner believed it could handle its film processing requirements at another facility which it owns at Hazelton, Pennsylvania. During late November and early December, 1973, a strike prevented film salvage at this facility for three weeks.

Maximum film storage capacity is 500,000 pounds at North Chicago and 300,000 pounds at Hazelton, and storage capacity is full at both locations. Maximum film processing capacity is 100,000 pounds per week at Petitioner's Hazelton facility, and it is now operating at full capacity. Of this weekly amount of film that is burned, approximately equal amounts are from its North Chicago storage and from Hazelton.

A Recommendation was received from the Environmental Protection Agency (hereinafter Agency) on March 7, 1974. Agency contact with an agent of the Petitioner revealed that "if the variance is granted, approximately 250,000 pounds of material will be burned at the Odell facility" and that Petitioner "has no plans to construct a new incinerator at North Chicago." . . . "In the Agency's opinion, the Petitioner has purchased more X-ray film than it is able to process. Petitioner has not stated that it is able to store the material in Pennsylvania for awaiting processing at this facility.

"Petitioner alleges that a financial hardship would exist if it were not allowed to burn the X-ray film at the Odell facility. However, Petitioner does not elaborate on what type of hardship would exist if it were not allowed to burn the X-ray film at the Odell plant. Petitioner does not substantiate its reasons for not completing the incinerator at North Chicago nor does Petitioner state if it will be necessary to extend this variance beyond the sixty days because of increased demands at the Pennsylvania plant.

"In interviewing citizens as a result of this variance request, the Agency received the same complaint that when the open burning occurs, an odor exists in the area surrounding the Odell plant. Citizens surrounding the plant indicated they were unhappy to see the burning resume."

The Agency recommended that this variance be denied, and the Board concurs in this recommendation. Petitioner has not diligently tried to develop alternate facilities to replace the inadequate Odell facility - the purpose for which the previous variance was granted in PCB 73-332. A hearing is not warranted under the Board's Procedural Rule 405(b)(1) because, even if all the facts alleged in the Petition are true, the Petitioner is not entitled to a variance.

ORDER

IT IS THE ORDER of the Pollution Control Board that Petitioner be and is hereby denied a variance from Rules 202 and 203 of Chapter 2, Air Pollution Regulations, to operate a film-burning facility near Odell, Illinois.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted on this 18th day of April, 1974, by a vote of 5 to 0.

Christan L. Moffett
Christan L. Moffett, Clerk