

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1973

ROBERT R. DETERS; FABIAN J. DETERS;)
MARCELLUS J. DETERS; ALVIN L. DETERS;)
WILLIAM H. DETERS, JR.; and NORMA)
MARIE DETERS WEIMAN, d/b/a DETERS)
DAIRY,)
)
)
v.) PCB 73-20
)
)
ENVIRONMENTAL PROTECTION AGENCY.)

OPINION AND ORDER OF THE BOARD (by Samuel T. Lawton, Jr.):

Petitioners, doing business as Deters Dairy, seek variance from the operating permit requirements of Rule 902 of the Water Pollution Control Regulations because of the Board's previous order. (See Environmental Protection Agency v. Robert R. Deters et al, #72-260, 5 PCB ____, November 8, 1972). Petitioners are the owners and operators of a farm near Quincy, Adams County. The farm occupies over 1,000 acres and approximately 200 cows are maintained. Production averages between 200,000 and 240,000 pounds of milk and dairy products per month.

Last year, Respondents were found in violation of Section 12(a) of the Environmental Protection Act and their operation caused substances to be present in an unnamed tributary of Curtis Creek, producing odor, color, other conditions in such a degree as to create a nuisance. Respondents were assessed a penalty of \$5,000 and ordered to cease and desist from all violations found in the opinion after January 22, 1973. It is that date that Petitioners seek variance from, due to delay in procuring the necessary construction and operation permits from the Agency.

A subsequent Agency investigation has disclosed that Petitioners had substantially complied with our order of November 8, 1972. The penalty was promptly paid and the dairy product waste has been diverted to a lagoon treatment facility. The Agency recommends, subject to certain conditions, that the variance sought should be granted.

We grant a variance to Petitioners from Paragraph 1 of our November 8, 1972 order until August 1, 1973. This variance is subject to the following conditions: Petitioners must, within 21 days from the date of this order, file application for any and all construction or operating permits required by

our previous order; Petitioners must complete all necessary modifications in order to obtain required construction and operating permits; construction of all proposed and permitted pollution control equipment shall be accomplished by August 1, 1973.

This opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS HEREBY ORDERED that:

1. Respondents shall cease and desist from all violations found in the opinion of November 8, 1972, after August 1, 1973;
2. This variance is subject to the following conditions:
 - (a) Petitioners, within 21 days after the entry of this order herein, shall file application for any and all construction or operating permits required by our previous order;
 - (b) Petitioners complete all necessary modifications in order to obtain required construction and operating permits;
 - (c) Construction of all proposed and permitted pollution control equipment be accomplished by August 1, 1973.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 12th day of April, 1973, by a vote of 4 to 0.

Christan L. Moffett