

ILLINOIS POLLUTION CONTROL BOARD

December 19, 1974

Jean T. McMackin, )  
Petitioner, )  
 )  
v. ) PCB 74-236  
 )  
ENVIRONMENTAL PROTECTION AGENCY, )  
Respondent. )

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

On June 21, 1974, the Pollution Control Board (Board) received through the Environmental Protection Agency (Agency) a request of May 28, 1974, from Jean T. McMackin for a variance from Rule 502 of the Air Pollution Regulations, Chapter 2. Petitioner seeks an extension of a variance granted in Jean T. McMackin v. Environmental Protection Agency, PCB 73-67, 7 PCB 697 (May 3, 1973), for the open burning of brush, dead limbs and trees in a park-like tract of land near Salem, Illinois. The land on which the burning occurs consists of 261 acres in 4 tracts located within 1,000 feet of the Salem city limits and thus it is in a restricted area according to Rule 503(c)(4)(v) of Chapter 2. Part of the material to be burned has been afflicted with Dutch Elm disease. Petitioner states that he has "no changes to record or to request" that differ from the original Petition for Variance. He adds that open burning of the waste has been "very occasional" in the past year "as it would be for the year ahead".

On June 27, 1974, the Board requested more information and Petitioner responded on July 13, 1974.

Agency information filed with the Board on July 8, 1974, shows that Petitioner would burn a maximum of about 130 tons of landscape waste per year. The estimated cost of hauling such waste to an approved landfill would be \$3,510 per year. An Agency investigator reported that Petitioner has not acquired any new land and that there have been no changes in the circumstances since the original variance was granted. The investigator encountered no citizen complaints relative to Petitioner's burning. Such burning, according to the Agency, is conducted as part of good operating and maintenance procedures in an effort to "keep Petitioner's property beautiful". The Agency recommends the granting of this variance subject to conditions regarding the timing, atmospheric conditions, and specific location of the burning.

On September 5, 1974, the Board requested from the Petitioner information on (a) the cost of using alternative methods of disposal, (b) present uses of the tracts, (c) the date of ultimate compliance with the Regulation, and (d) a map showing the exact location of the tracts in relation to City of Salem boundaries.

A response from the Petitioner was received by the Board on September 23, 1974. It included a map of the 4 tracts and the City of Salem, some new information, and information contained in Petitioner's letter of February 1, 1973, to the Agency. Tract 1 is located on the north edge of Salem, Tracts 2 and 3 are between Salem and the Airport to the west, and Tract 4 is on the south edge of Salem. Petitioner's business comprises a combination of farming and real estate development. Some clearing and burning of brush is needed for normal "housekeeping" in the farming operation and to prepare a limited amount of land for subdivision purposes. There is a landfill about 3 to 5 miles from Petitioner's tracts, but he alleges that the hauling and disposal charge of \$30.00 per load "would be prohibitive for one with a farm housekeeping operation of my size. . . . The only air curtain destructor available in the community is at this landfill. As to a chipper, the only one I know of is one hired from time-to-time by the local utilities, and limits its operations largely to twigs and small branches removed from the area of their lines." Petitioner has "no time schedule for bringing the activity into compliance; inasmuch as it is a continuing and time-to-time activity, I would appreciate a year's variance." Petitioner believes that "there is no practical or economically feasible way for a farmer to dispose of his landscape waste except by burning it at or near the point where it is generated."

If Petitioner anticipates a continuing need to burn landscape waste, he should give greater consideration to achieving compliance with the burning provisions of Chapter 2, Air Pollution Regulations, before requesting another variance from the Board on this matter. For example, the cost of a private air curtain destructor amortized over its useful life may be more practical than some other methods such as hauling the landscape waste to a landfill.


In their Recommendation filed with the Board on July 8, 1974, and also in their Amendment To Recommendation filed on December 3, 1974, the Agency recommended that Petitioner be granted a Variance for one year after May 3, 1974, subject to certain conditions. We shall grant this Variance, subject to those conditions.

#### ORDER

IT IS THE ORDER of the Pollution Control Board that Jean T. McMackin be granted a Variance from Rule 502 of the Air Pollution Regulations for one (1) year from May 3, 1974, to May 3, 1975, for the purpose of burning landscape waste on McMackin's 4 tracts described herein near Salem, Illinois. This Variance is granted subject to the following conditions:

1. The open burning shall be conducted on days when wind velocity is between 5 and 25 miles per hour and shall be conducted only between the hours of 8:00 a.m. and 4:00 p.m.
2. The materials to be burned shall be confined to the smallest practicable area and the open burning site shall be established on a cleared area which shall be adequately restricted.
3. The materials to be burned are expressly limited to those stated in Petitioner's original application for a Variance to open burn.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 19<sup>th</sup> day of December, 1974, by a vote of 4 to 0.

  
Christan L. Moffett