

ILLINOIS POLLUTION CONTROL BOARD

October 4, 1973

CONSUMERS' GRAIN AND SUPPLY COMPANY,)
)
 Petitioner,)
)
 vs.) PCB 73-289
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

On July 10, 1973, Consumers' Grain and Supply Company, Galesburg, Illinois, filed a variance petition requesting relief from Section 9(a) of the Environmental Protection Act for a period of one year.

The Petitioner is engaged in handling and drying grain, principally corn, oats, and soybeans. During the last crop year, the Petitioner received, dried, processed, and loaded out approximately 3,000,000 bushels of grain. Contaminants from these operations include dust and chaff which could contribute to a violation of Section 9(a) of the Environmental Protection Act.

During the requested one-year variance from provisions in Section 9(a) of the Environmental Protection Act, the Petitioner proposes to take the following steps to reduce contaminants in the air:

- a. Modify screen size on the Sanders drier by September, 1973, if equipment can be secured.
- b. Use screen cleaners and vacuums connected to cyclone type dust collectors on the Clipper-Randolph driers; completion date scheduled for September 1, 1974.
- c. Petitioner tempers the above proposed modifications by any findings of the Joint Task Force on Grain Regulations.

On September 25, 1973, the Pollution Control Board received a report and recommendation from EPA concerning this case. On

August 19, 1972, and on July 19, 20, and 23, 1973, and on various other occasions, EPA personnel had visited Petitioner's facility to observe emission sources and proposed control programs and to discuss with nearby citizens the extent of interference which Petitioner's facility causes them. It was found that on the effective date of Part II of the Air Pollution Regulations, Petitioner was in violation of Rule 203(b) and, therefore, must, by May 30, 1975, comply with Rule 203(a). EPA seriously questions the effectiveness of the proposed abatement programs of the Petitioner, and does not feel that a variance is required to allow Petitioner to participate on the Task Force. Petitioner has not shown that it spent \$73,000 for and EPA is of the opinion that the nuisance still exists. "The Agency has received many adverse comments from the neighbors of Petitioner's facility. These people complained of dust emissions which unreasonably interfere with their enjoyment of their property, health and life." Further details would be necessary to substantiate this if enforcement was involved.

On August 9, 1973 the Illinois Pollution Control Board adopted R72-18, concerning grain handling regulations. The last paragraph of this document states that "Although grain handlers are relieved of their Rule 203 Standards for a while longer, we hasten to point out that this is no license to pollute. The Environmental Protection Act [section 9 (a)] states: 'No person shall cause or threaten to allow the discharge or emission of any contaminant into the environment in any state so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources. During this interim period grain handling operations which cause air pollution as defined in the Statute will be subject to prosecution.'" Air pollution is defined as follows:

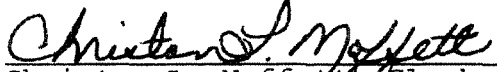
'Air Pollution' is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life and property."

This variance request by the Petitioner is for relief from nuisance provisions of the Statute, rather than from any specific regulation concerning particulate emissions. The EPA recommended that the Variance be denied and the Board concurs. To rule otherwise would place all of the hardship on the public for one year, by the very nature of the Variance sought. Even though specific grain handling regulations are not yet in effect, air pollution, as defined in the Statute, is subject to prosecution.

ORDER

It is the order of the Pollution Control Board that the request of Consumers' Grain and Supply Company for a Variance be and is hereby denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 4th day of october, 1973 by a vote of 5^v to 0.


Christan L. Moffett, Clerk
Illinois Pollution Control
Board

