

ILLINOIS POLLUTION CONTROL BOARD

February 3, 1972

WHETZEL CONSTRUCTION COMPANY            )  
  )  
                  v.                         )  
  )  
ENVIRONMENTAL PROTECTION AGENCY        )

PCB 71-302

Stuart M. Mamer, Attorney for Whetzel Construction Company  
Thomas J. Immel, Attorney for the Environmental Protection Agency

Opinion of the Board (by Mr. Aldrich):

Whetzel Construction Company ("Whetzel") requests a variance to permit the dumping of nonputrescible refuse in a borrow pit in Champaign County, Illinois. Petitioner seeks a variance from Rule 5.12(c) of the Rules and Regulations for Refuse Disposal Sites and Facilities ("Land Rules"), which rule prohibits the deposition of refuse in standing water. We grant the variance for reasons given below.

The record indicates that the pit in question resulted from the removal of dirt for the construction of Interstate Highway 74. Whetzel, which leases the property on which the pit is situated, has disposed of refuse in the pit since early in 1970. The Company, under different ownership, has used the pit for the same purpose since 1962. From 10,000 to 15,000 cubic yards of material have been placed in the pit yearly since that time. William J. Auterman, Executive Vice President of Whetzel, testified that the materials are limited to broken concrete, broken asphalt, dirt, gravel, stone and broken brick (R.7). Any putrescible or combustible materials are removed before dumping into the pit, then hauled to the city dump for disposal (R.8).

Mr. Auterman estimated that the borrow pit contains 20 million gallons of water (R.11). Removal of this water by pumping it out of the pit is alleged not to be feasible because of lack of a suitable discharge area (R.11, 21). Otis E. Michels, a consulting engineer, testified that studies of soil conditions and of the geology of the area do not indicate any ground water aquifer within the influence of the pit (R.19). Surface water from areas surrounding the pit is bypassed naturally and does not enter the pit. Mr. Michels asserted that there is no significant flow of water from the pit and that the materials which petitioner places in the pit will not leave the site (R.21). At the hearing, counsel for the Agency stated that the Department of Public Health examined water samples from both the pit and from a nearby well during 1970 (R.24). No appreciable pollution characteristics were found.

Petitioner contends that denial of a variance to continue dumping materials into the pit would impose a financial hardship on the Company as these materials would then have to be disposed of at the city dump, for which a fee is charged (R.12). Whetzel further argues that the pit poses a threat to human safety, particularly that of children, and that the filling of the pit is in the best interests of the public. The latter contention is supported by the Agency, which does not object to the granting of a variance. The Agency further notes that if Whetzel is permitted to continue dumping materials into the pit, the latter will eventually be filled and the site restored to a potentially useful piece of property (R.25). Mr. Auterman indicated that the pit would probably be filled within a period of five years (R.12). We agree that in the absence of any real potential for pollution the filling of the pit is in the public interest. We will therefore grant to petitioner a variance from Rule 5.12(c) of the Land Rules for a period of one year, the statutory limit. Petitioner is free to request an extension of the variance at a later time. In granting a variance we impose only the condition that materials disposed of in the pit continue to be of a noncombustible and nonputrescible nature. In view of this condition, we do not feel that periodic reports from petitioner as to the nature of materials disposed of would serve a useful purpose and hence will not require such reports.

A variance is hereby granted until February 3, 1973.

I, Christan L. Moffet, Clerk of the Pollution Control Board, certify that the Board adopted the above opinion this 3 day of February, 1972, by a vote of 5-0.

Christan L. Moffet