

ILLINOIS POLLUTION CONTROL BOARD
December 21, 1971

EVERETT McCLELLAN)
)
) #PCB71-315
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

MR. EVERETT McCLELLAN, PRO SE
MR. PRESCOTT BLOOM, SPECIAL ASSISTANT ATTORNEY GENERAL AND
MR. TIMOTHY ELDER, ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY
MR. RODNEY HALLBERG, ASST. STATE'S ATTORNEY, ON BEHALF OF
COUNTY OF TAZEWELL

OPINION OF THE BOARD (BY MR. LAWTON):

Petitioner, EVERETT McCLELLAN, operator of a refuse disposal site in the unincorporated area of Tazewell County, filed a petition for variance from Section 20 of the Environmental Protection Act. This section, however, is a statement of policy and not an appropriate provision for variance. We construe the request for variation as one seeking relief from the provisions of the Rules and Regulations Governing Refuse Disposal Sites and Facilities, Rule 5.07, requiring a daily cover of six inches over exposed refuse. Petitioner asks that in lieu of compliance with the foregoing regulation, he be required to cover only twice a month. Petitioner has entered into a contract with the authorities of Tazewell County by which Petitioner would make available a portion of his ninety-acre site for the disposal of bulk refuse items, (excluding garbage,) principally appliances and furniture. The site would be available for this purpose from 9:00 A. M. to 6:00 P.M. on Saturdays and from Noon to 6:00 P. M. on Sundays. It is anticipated that approximately 150 car and truck hauls would be made to the site each week-end.

The petitioner has equipment to compact the material so deposited, but contends that the requirement of daily cover would impose an unduly burdensome cost and would deplete the cover material available.

The Environmental Protection Agency recommends that the variance be denied. We find the evidence in the record insufficient to substantiate a showing of hardship to justify the allowance of variance.

The petitioner is lessee of a ninety-acre tract. It is difficult to understand why, with this large a site, sufficient cover would not be available to comply with the sections of the Regulation, particular-

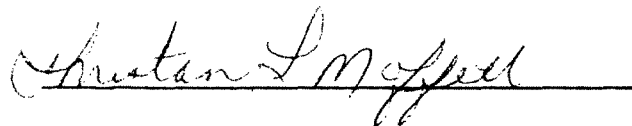
ly, since the petition states that only thirty cubic yards of refuse per week would be involved and this, of course, would be prior to compacting. Likewise, although petitioner contends that the covering would cost him \$28.50 per hour for seven hours a week against an income of \$10.00 an hour for fifteen hours a week, the cost figures are nowhere substantiated in the record and even if true, do not constitute a hardship of sufficient magnitude to justify relief from the provisions of the Rules. Accordingly, it will be our Order that the variation be denied. Cf. Environmental Protection Agency v. Bath, Inc. and John L. Walker, #PCB71-52; Bath, Inc., John L. Walker and John H. Walker v. Environmental Protection Agency, #PCB71-244, Consolidated.

The entire subject of solid waste disposal and operation of refuse disposal sites is being reviewed by the Institute for Environmental Quality and the Environmental Protection Agency with the view of promulgating new and detailed regulations on this important subject. It may well be that after hearings and further study, we may adopt a new regulation modifying the cover requirements for non-garbage refuse, particularly of a sort and under conditions where leaching will not be a consequence. However, we are not, at the present time, prepared to permit variation of the cover requirements, particularly under circumstances where the record is inadequate to justify such departure.

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

IT IS THE ORDER of the Pollution Control Board that the variation be denied.

I, Christian Moffett, Acting Clerk of the Illinois Pollution Control Board, certify that the above Opinion was adopted on the 21st day of December, 1971 by a vote of 4-0.

A handwritten signature in cursive script, reading "Christian L. Moffett", is written over a horizontal line.