

ILLINOIS POLLUTION CONTROL BOARD
June 23, 1971

Village of Deerfield)
)
 vs.) PCB 71-63
)
 Environmental Protection Agency)

Opinion of the Board (by Mr. Kissel):

On March 26, 1971, the Illinois Pollution Control Board received a petition from the Village of Deerfield requesting a variance from Section 9(c) of the Environmental Protection Act and from the Rules and Regulations Governing the Control of Air Pollution. Deerfield has asked permission to burn approximately 325 dead and diseased elm trees in a storage and garage area in the village. The trees are to be burnt in an area 25 feet in diameter, approximately 500 feet from the nearest residence or manufacturing building.

This Board has held that the risk of further infection caused by diseased trees is sufficient hardship in itself to justify the open burning of such trees, as compared to the relatively minor harm that will be caused by the burning (see City of Winchester v. EPA, PCB 70-37). The Board has recognized further that elm wood, though not yet diseased, if allowed to accumulate may come to harbor the elm bark beetle and thus lead to the further spread of disease. (Charles Fiore Nurseries, Inc. v. EPA, PCB 71-27). Deerfield may therefore open burn elm wood or diseased elm trees.

We grant the variance on the above grounds somewhat reluctantly, however. As noted in the Agency recommendation, the several residents interviewed who lived within 200 to 1000 feet of the burning site all were opposed to the granting of this variance. Though the Village in its petition stated that no residence or manufacturing facility was located within 500 feet, the Agency investigation showed residences to be within 200 feet.

Further, the petition which Deerfield presents this year is one which will assuredly make a repeat performance before this Board unless the Village takes positive steps now to avoid the prospect of open burning in the future. There are now becoming available on the market devices known as air curtain destructors which, by the use of inexpensive blowers, consume much of the smoke from open burning. Those seeking open burning variances--and especially those in the developed

Northeastern Illinois metropolitan area--should be warned that variances will not be granted in the future, even for diseased trees, unless they offer proof that for some reason such a device cannot reasonably be employed under the circumstances.

The Board's hearings on open burning regulations still remain open for comment from all interested parties. Applications for permission to burn in accordance with the new regulations will be in order after adoption, which is expected in July.

The above constitutes the Board's findings of fact and conclusions of law.

The following order is hereby entered.

1. A variance is hereby granted until October 31, 1971, to the Village of Deerfield to burn in the open air diseased elm trees and any elm wood, but only under the following conditions:

- a. Burning shall be done at the site described in the petition, i.e. 25 feet in diameter and at least 500 feet from the nearest residence or manufacturing facility;
- b. Burning shall be done between the hours of noon and 4:00 p.m., only when the wind is between 5 and 20 miles per hour, only when the sky is not overcast, and when the wind is from the north;
- c. All burning shall be done under the direct supervision of a Village employee;
- d. No fuel of lesser quality than number two fuel oil shall be used to promote combustion;
- e. On or before the date of expiration of this variance, the Village shall submit a report to the Board and to the Agency describing alternative means of disposal for dead and diseased trees, the estimated cost of each method, and the plan adopted by the Village to avoid the necessity of an open burning variance in the future.

I, Regina E. Ryan, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order this 23 day of June, 1971.


