

ILLINOIS POLLUTION CONTROL BOARD

August 13, 1971

Hardwick Brothers Company)
)
)
 v.) PCB71-17
)
)
 Environmental Protection Agency)

Opinion of the Board (by Mr. Kissel):

Hardwick Brothers Company ("Hardwick") originally filed a petition for variance from the open burning regulations and existing law, and this Board granted that variance, Hardwick Brothers Company v. Environmental Protection Agency, PCB 71-17, dated May 3, 1971. Hardwick was granted a variance by the Board to conduct burning of trees and underbrush gathered as a result of its work on the straightening and dredging project on the north fork of the Saline River, under specified conditions, until September 1, 1971. Further, Hardwick was required to submit to the Board a report on or before July 1, 1971^{1]} detailing its investigations and conclusions on the following:

- "a. The possibilities of, and economics in, acquiring additional right of way on the Saline River project; and
- b. The possibilities of, and economics in, using an 'air curtain' device in the burning."

The purpose of this investigation was to determine whether there was any other economical way to dispose of the trees and underbrush other than to burn them in the open.

1] There was a discrepancy between the date in the Board opinion and the date in the Board order. The order required the report by July 1, 1971 and the opinion required it by August 1, 1971. Actually, Hardwick filed two reports, one on June 30 and one on July 30; so it complied with both dates.

On July 30, 1971 ^{1]} Hardwick, through its attorneys McClure and McClure, directed a letter to the Board, and sent copies of the letter to the Environmental Protection Agency, advising the Board and the Environmental Protection Agency that Hardwick had made the investigations in the two required areas. Hardwick advised as follows:

1. The additional right-of-way - This land would have to be acquired by the Saline County Conservancy District, and would, according to Hardwick, have to be acquired by condemnation proceedings. Since the Conservancy District does not have the power of "quick take", lengthy legal proceedings would have to be instituted. We know from the prior hearing that the land already received by the Conservancy District was given to them by the local land owners, and that the District has little, if any, money with which to purchase land now. Even if it did have the money, Hardwick points out that "it is extremely unlikely that such proceedings could be completed in time to be of any value to this contractor under the provisions of its current contract with the Corps of Engineers."

2. Use of the "air curtain" destructor - In its report Hardwick says:

"The contractor has very seriously considered the possibilities of, and the economics in using an 'air curtain' device in burning this material when weather and water level conditions permit. The contractor's past experience with air-curtain-type burning involves the digging of a trench 8 to 10 feet deep and introducing air under pressure through tubes at the bottom of the ditch to the combustible material piled in the ditch. In this particular area this method of air-curtain burning is not practicable because the ground water level is so near the surface that a ditch of any appreciable depth would immediately fill with ground water. Further, normally a pit for air-curtain-type burning must have vertical sides. The character of the soil in the project area and the moisture content in the project area is such that it would not be possible to maintain a vertical wall for the pit. Simply stated, any pit dug on the right of ways furnished by the Corps of Engineers for this project would constitute nothing but a 'mud hole'."

This Board believes that Hardwick has made a good faith effort to find alternate ways of disposing of the trees and underbrush from the Saline River project. For the reasons stated in the original opinion, this Board agrees that the variance previously granted to Hardwick should be extended until August 13, 1972, under the same conditions as set forth in paragraphs 1 and 2 of the previous order of the Board in this case.

Upon presentation and consideration of the documents submitted by Hardwick, the Board hereby extends the variance previously granted to Hardwick on May 3, 1971 under the same conditions as set forth in paragraphs 1 and 2 of the order of the Board of that date.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above opinion and order this 13th day of August, 1971.

A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.