

ILLINOIS POLLUTION CONTROL BOARD
March 22, 1971

CITY OF HARRISBURG)
)
 v.) PCB #71-46
)
 ENVIRONMENTAL PROTECTION AGENCY)

Opinion and Order of the Board (by Mr. Currie):

The City asks a variance to burn trees in the open at its landfill, alleging that the nearest homes are three quarters of a mile away, that some of the trees are diseased, and that burying the trees would cost \$100 a week. We deny the petition without hearing because, even if all the allegations of the petition are true, no variance is called for.

We have had many occasions to spell out the law as to tree burning. Open burning, except of diseased trees, has been against the law since 1965. We have allowed the burning of diseased trees in appropriate cases even after passage of the absolute ban on open burning in the Environmental Protection Act, since burning helps to avoid the risk of spreading infection. City of Winchester v. EPA, #70-37, (Feb. 8, 1971). Nevertheless, we have refused permission to burn diseased trees on landfill sites because of the danger of igniting other refuse, City of DuQuoin v. EPA, #70-40 (March 3, 1971), and we adhere to that decision even in the absence of a showing that the landfill is improperly conducted.

As for trees that are not diseased, there are additional reasons for denying the variance. \$100 a week, as we have suggested in numerous cases, is a small price to pay for avoiding pollution in the disposition of refuse. E.G., Swords v. EPA, #70-6 (Sept. 2, 1970). The emission of considerable smoke, moreover, does not become acceptable simply because it is not done on somebody's doorstep. The policy of the state, in the absence of arbitrary or unreasonable hardship, is to keep contaminants out of the air, because they do nobody any good once they get there. The petition is denied.

We are presently considering several alternative proposals for amending the open burning regulations, one of which would allow tree burning under appropriate conditions. If it is shown in that rule-making proceeding (#R70-11) that other methods of tree disposal are less attractive than open burning, we shall consider a revision. Comments are invited, and a new application may be submitted after action is taken on the proposed amendments.

This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan, do hereby certify that the above Opinion and Order were approved this 22nd. day of March, 1971.


REGINA E. RYAN, CLERK OF THE BOARD