

ILLINOIS POLLUTION CONTROL BOARD  
February 7, 1980

INTERNATIONAL MINERALS & CHEMICAL )  
CORPORATION, )  
  ) Petitioner, )  
  ) )  
  ) v. ) PCB 79-176 )  
  ) )  
ENVIRONMENTAL PROTECTION AGENCY, )  
  ) )  
  ) Respondent. )

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a petition for variance filed August 27, 1979 by International Minerals and Chemicals Corporation (IMC), a New York Corporation authorized to do business in Illinois. On December 12, 1979 an amended petition was filed requesting a variance from Rule 502 pursuant to Rule 505 of Chapter 2: Air Pollution Control Regulations. These rules govern open burning of explosive waste. Petitioner also submitted with the amendment the results of air quality modeling and filed a motion for expedited consideration citing a serious hazard of fire in the accumulated waste. IMC has waived its right to a hearing and no public comment has been received. On January 23, 1980 the Agency recommended that the variance be denied. IMC responded on January 30, 1980.

The Trojan Division of IMC's Chemical Group operates a plant in Wolf Lake, Union County. The description of the business given by Petitioner is not adequate to meet the requirements of Procedural Rule 401(a)(2) and (3). Apparently, IMC manufactures explosives and also fabricates primers from scrap military explosives at the plant (Rec., Ex. 1). It is not clear whether this is a full or complete description of the operation. The petition requests a variance to allow open burning of reject shells and contaminated packaging materials. At the time it filed the petition, IMC had on hand 129,000 kg (285,000 lbs.) of existing contaminated packaging and reject shells and estimated that it was generating about 2500 kg (5500 lbs.) per week.

Petitioner proposes to conduct open burning in a "fenced, remote northern area," approximately two-thirds mile distant from the nearest home. Petitioner has attached as Exhibit 1 a topographical map showing the location of the plant. This exhibit shows that the plant is situated within the boundaries of

Shawnee National Forest. The burning site is located at an elevation of 350 feet approximately 400 feet from the base of a steep slope. It is less than 1000 feet from the crest of a ridge with elevations varying from 600 to 700 feet above sea level. The petition contains no discussion of measures which have been taken to ensure that a fire does not start on the slope or of difficulties which could be encountered in fighting a fire on such a slope. There is also no discussion of the effect the emissions might have on the environment peculiar to this area of the National Forest. The nearest air quality monitoring station is not identified. The petition is therefore deficient under Procedural Rules 401(a)(4) and (7).

The proposed burning site is situated adjacent to the eastern shore of Wolf Lake (Pet., Ex. 1). The Agency has expressed concern that burning at that site could cause water pollution problems from the resulting ground water runoff. In its response IMC states that it has taken unspecified steps to avoid this problem.

Petitioner alleges that IMC has been previously granted variances for open burning of solid wastes in PCB 71-57, 71-58 and 74-32. Apparently the last of these was actually the only variance granted (Trojan-U.S. Powder Co. v. EPA, 13 PCB 105, July 18, 1974). In that Order the Board granted a six month variance to burn 1100 pounds per day of waste similar to that described above. The variance was conditioned on posting of a \$10,000 performance bond and on filing with the Agency and Board within three months a detailed plan to bring the site into compliance. The plan was to include as a minimum: a firm compliance date, if possible; a timetable for an ongoing research and development program either internally or externally conducted; a complete economic study of hand picking of wastes; and a distinction between plans for solid and contaminated wastes. The petition contains no explanation of how the site has operated for four and one-half years without a variance and yet has only fifty-two weeks worth of accumulated waste. There is no discussion of Petitioner's record of compliance with the previous variance conditions as is usually offered in petitions for extension of previous variances.

The Agency files indicate that no compliance plan or performance bond was ever provided (Rec. 3). On August 14, 1974 Petitioner informed the Agency that it no longer required a variance for open burning. On May 24, 1976 the Agency wrote a letter indicating that there might be violations of the Solid

Waste Rules in connection with landfilling operations on the site. On June 5, 1976 the facility indicated it would file a permit application. Forms were provided on June 10, 1976 but the Agency never received an application. On February 3, 1977 an inspection revealed that the landfill had been discontinued.

On May 26, 1977 an Agency inspector found that explosive contaminated waste was being stockpiled on the site. At that time there was an indication that IMC would again file a variance petition for open burning. No such petition was filed until this proceeding commenced in August, 1979. On September 4, 1979 the Agency conducted another inspection. This revealed the stockpile which IMC estimates at 129,000 kg. Mr. R. W. Levan, Assistant Plant Manager, indicated that the stockpile dated to October or November, 1978 but denied knowledge of disposal practices prior to February, 1979 when the Agency inspector indicated that he had observed stockpiling in May, 1977 (Rec. 5).

On September 4, 1977 the Agency inspector observed waste materials in the pile which did not appear to be explosive contaminated waste. On September 7, 1979 Mr. William Ernst, IMC's environmental affairs officer, advised the Agency that all waste from the facility was placed in the pile with the exception of the baled waste paper from the shell house (Rec. 6). Office waste was considered explosive contaminated waste due to the fact that it was placed in a haul wagon which also contained explosive contaminated waste (Rec. 7). In its response IMC states that it is now taking steps to separate office waste.

In its petition IMC alleges that in 1976 it retained a consulting engineer to investigate a wet maceration system for the contaminated paper and wood. In this procedure the explosive contaminants would be washed from the packaging materials with water. The materials would then be baled and landfilled. This system was rejected because of a potential water pollution problem and doubt about whether the packaging materials would actually be free of explosives. This seems inconsistent with the Agency's allegations that the facility actually engaged in landfilling from 1974 through 1976 (Rec. 3). IMC is still considering making application for a landfill permit. The Agency's Division of Land Pollution Control has been in contact with IMC, but no soil borings have been taken to determine the suitability of the site (Rec. 8).

IMC has also presented a memorandum from a Mr. P. Barnhard who visited prototype incinerators at Tooele Army Depot. Estimated installed costs were \$140,000 for explosive waste, \$110,000

for contaminated waste and \$130,000 for air pollution control equipment. The explosive waste prototype had been unable to contain explosion of a five pound charge and the contaminated waste incinerator was unable to contain any explosion. Mr. Barnhard recommended against construction of either for safety reasons. With respect to contaminated waste the fear was that an occasional full box of powder would be fed into the system. There is no discussion of the costs and feasibility of hand sorting of wastes. With respect to explosive waste, there is no explanation of why the explosive cannot be fed in quantities smaller than five pounds.

Petitioner also discusses the explosive waste incinerators operated by Olin Corporation near Marion which are the subject of a site specific regulation pending before the Board in R78-9. Petitioner alleges that a valid correlation cannot be made because the wastes burned at Olin are not of the same explosive category as those burned at Wolf Lake.

On September 4, 1979 Mr. R. W. Levan of IMC indicated that there was danger of fire in the stockpiled material, but that an explosion was unlikely (Rec. 5). On October 12, 1979 about 60% of the material was consumed in a fire on the site (Rec. 6). Witnesses said that although there was some flashing or rapid burning, no explosions occurred during the fire (Rec. 7). IMC representatives have indicated to the Agency that they desire to abandon the proposed remote burning site and conduct open burning adjacent to the stockpile area to save hauling costs.

A reading of the Board's Opinion and Order of July 18, 1974 indicates that the issues before the Board at that time were virtually identical to the issues in this proceeding. The Board's solution then was a six month variance conditioned on a thorough study of the problem. Five years later IMC is before the Board with a petition and three page memo concluding that incineration is impossible. The memo does not even discuss all of the issues that were to have been studied four and one-half years ago. Under the circumstances the Board will not award another variance conditioned on performing studies which were to have been done years ago. To maintain its assertion of impossibility at this time IMC should have presented concrete proposals with itemized costs and definite reasons why they would not work. Procedural Rules 401(a) (6), (8) and (9) require in variance petitions, among other things, detailed description of proposed equipment to achieve full compli-

ance, including a time schedule, past efforts to achieve compliance including costs incurred and a discussion of the availability of alternate methods of compliance. The petition is deficient in these respects as well as those detailed above. It will therefore be dismissed.

In its response IMC alleges that the Agency has proposed in R79-14 to eliminate Rule 505 and allow open burning of explosive waste by permit. This is remote from the issues of this proceeding.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

The petition in this matter is dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 7<sup>th</sup> day of February, 1980 by a vote of 4-0.

  
\_\_\_\_\_  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board