

ILLINOIS POLLUTION CONTROL BOARD

June 9, 1971

CITY OF LINCOLN )  
 )  
 v. ) PCB # 71-56  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

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

The City asks permission to burn 20 truckloads per week of diseased trees despite the statutory and regulatory ban on open burning. We deny the request.

Although uncontrolled burning is an obvious and usually unnecessary source of air pollution, we have on several occasions (e.g., City of Winchester v. EPA, #70-37, February 8, 1971) allowed the burning of diseased trees on the ground that burning of diseased trees is desirable to ensure destruction of insect pests and stem the spread of disease. We stress that it is this and this alone that lies behind our exception for diseased trees; the term "diseased" is not to be abused by attempting, under cover of the exception, to burn vegetation that has been lopped off to clear utility lines or blown down by a storm. The Agency's inspector in this case was told that the trees to be burned were "dead and rotten" but the City's spokesman "did not know of any infectious disease in the trees". Thus on the City's own admission the trees in question do not qualify, except that, we have held, elm wood is subject to burning under proper conditions, though not yet diseased, in order to prevent it becoming a refuge for pests. (Charles Fiore Nurseries, Inc. v. EPA, # 71-27, May 12, 1971).

But even as to elm wood the petition must be denied. Even trees that pose a threat of contagion may be burned only in such a place and manner as to minimize pollution. See City of Du Quoin v. EPA, # 70-40, where we refused permission to burn diseased trees at a landfill site, where there was a risk of igniting other refuse. Similarly, here we are asked to allow burning "within 1,000 feet of two separate residential areas" according to the Agency. That is too close for comfort. The obnoxious nature of emissions from tree burning we have had occasion to describe elsewhere (Calhoun County Contracting Corp. v. EPA, # 71-14, April 14, 1971). We can take notice of the fact that not far from Lincoln there are sure to be areas more remotely located where burning could take place with far less risk of annoyance to anyone. It should also be mentioned that there are available devices known as air curtain destructors

which, by the use of inexpensive blowers, consume much of the smoke from open burning. We think it time to warn those seeking burning variances in the future that they will not be granted, even for diseased trees, unless there is proof that for some reason such a device cannot reasonably be employed under the circumstances.

We further call attention once again to our pending hearings on new open burning regulations, and invite comment from all interested parties. Applications for permission to burn in accordance with the new regulations, of course, will be in order after adoption, which is expected in July.

We regret that the Agency's considerable delay in filing its recommendation has made our decision come so late. The petition was filed with the Agency March 2 and with us, required by the Rules, March 19. The Agency's investigation took place March 10. Yet we received the recommendation no sooner than April 30. Such a delay is neither fair to the petitioner nor good for the cause of pollution control. Moreover, it leaves us with inadequate time in which to obtain further information, by hearing or otherwise, in the event the recommendation shows the need. We also request the Agency, in cases like this, to recommend alternative dispositions. In this case the Agency recommended denial. Had we disagreed we should have wanted guidance as to what conditions to impose with regard to the time and manner of burning, as we have done in other cases; time should not be lost having to ask for a second recommendation, the more so since it takes so long for us to receive the first.

The variance request is denied. This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion this 9th day of June, 1971.

