

ILLINOIS POLLUTION CONTROL BOARD
October 14, 1971

TROJAN - U.S. POWDER)
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 v.) ## 71-57, 71-58
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 ENVIRONMENTAL PROTECTION AGENCY)

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

On June 14, 1971 we entered an order granting in part Trojan's request for permission to burn explosive wastes despite the open burning regulations. Trojan has appealed the limitations of our order and, pursuant to Supreme Court Rule 335, asks us for a rehearing and stay of our order.

First are two matters of clarification. The order directed the company to "close" its Marion plant by August 1, 1971. This was on the basis of the company's representation that manufacturing at that site would cease by that time, and it was not intended to forbid continued use of the site for storage. The order is amended to provide for the cessation of manufacturing rather than the closing of the physical plant.

Second, there was ambiguity in the order as to whether or not the company could burn the Marion wastes within the wildlife refuge during the period of the variance. The Board voted unanimously to allow those wastes to be burned; two members were of the opinion that the wastes should be trucked outside the wildlife refuge for burning, but the majority, in light of representations as to a safety hazard in trucking, held that burning could take place at the plant site inside the refuge. The opinion is hereby modified to make that clear, and the clause "but Trojan shall not burn in the wildlife refuge" is deleted from the third paragraph on page two of that opinion.

A third point concerns the amount of wastes that may be burned at the Wolf Lake plant. The order, relying on a statement on page 18 of the transcript (# 71-58), limited burning to 100 pounds per day. As Trojan points out in its present motion, this is a misinterpretation of the record, for the 100 pounds there mentioned were in addition to an estimated 500 to 700 pounds per day of paper refuse contaminated with explosives (R. 10). As it was our intention to allow burning of the wastes generated in Trojan's normal operations

pending discovery of a preferable solution to the safety problem, we amend the order and opinion to allow the burning at Wolf Lake of up to 1000 pounds of nonsolid explosive contaminated waste per day and up to 100 pounds of solid explosive waste per day.

Trojan also challenges that provision of our order requiring the submission of a firm program for alternative means of disposing of waste from the Wolf Lake plant without open burning. We entered this order on the basis of an Agency recommendation alleging that the wastes in question were similar to those of another company that had discovered such an alternative. But Trojan's motion contests this allegation. Under normal circumstances we would say that the time to raise such issues is at the hearing, but since the Agency's recommendation was not filed until the date of the hearing we do not believe Trojan had an adequate opportunity to respond. We shall therefore grant a new hearing on this question, extending the Wolf Lake variance until we have taken further action on the basis of evidence there received.

Trojan further objects to the provision of the order forbidding the use of smoky materials to ignite the fire. This provision was based upon the above assumption that the waste was similar to that in another case in which no smoky materials were necessary. Again we think Trojan should be given the opportunity to show this is not so, and in the meantime, on the basis of the representations in its motion, sworn to by the plant manager, we shall allow the use of # 2 oil for igniting fires whenever reasonably necessary, in light of the danger of continuing to store the explosive materials.

The company requests that we allow quarterly instead of the monthly reports required by the original order. Normally we would not consider such a request after completion of the case, but since we are reexamining the order in other respects and since we believe quarterly reports will suffice we grant the request.

Finally, Trojan recites that it has on hand at Marion and wishes to burn the following explosive wastes: 35,000 pounds of overage dynamite; 30,000 to 40,000 pounds of contaminated paper and boxes; 335 cubic yards of contaminated earth from ditches used in the discontinued torpex operation; 15,500 torpex metal tubes and 125 to 150 metal drums. Permission is sought to burn these over an eight-week period. It is unclear just how much of this waste was covered by our original order, which contemplated the burning of materials generated in the last manufacturing operations and the final cleanup of the site. The original record is not very clear as to the amounts of material in issue. It did make clear that about 90% of the wastes generated were paper and only 10% overage explosives, in contrast to the present situation (R. 7, 36, 56). Nevertheless, it seems that these materials are basically the remains of the manufacturing operation and that their destruction

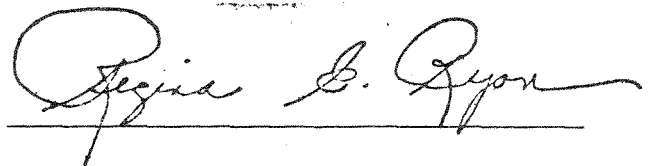
by open burning was contemplated by our initial order. We initially allowed only one month after termination of manufacturing to dispose of this waste, but Trojan tells us another eight weeks are required. Because of the safety hazard we shall allow this extension, especially since the initial record did not indicate how long it would take to complete the cleanup.

In addition, however, there is what appears to be an entirely new variance request on which a hearing must be held. Trojan had not indicated in the initial hearing that there would be any need for further burning after termination of the manufacturing operations in July 1971 and the attendant cleanup discussed above. Now, however, it is reported that Trojan intends to keep the plant open for sale of the large amounts of explosives still stored there. The request is to burn about 10,000 pounds of overage dynamite per year due to deterioration while in storage. The burning would take place in two five-day sessions a year. No end date is specified.

This request goes substantially beyond what we considered at the first hearing, and a new hearing will be held. The Board's permission to burn in a wildlife refuge, which of all places ought to be given special protection from pollution, was based on the belief, drawn from the record, that this was to be a terminal operation, and a rapidly terminal one. Indeed the company said that "we do not expect to return next year for a further variance, either as to water, contaminated paper and materials or explosives. In other words, we expect the plant to be closed within a year" (R. 10, 37).

The order and opinion of June 14 are hereby modified to the extent noted in this opinion. The case will be renumbered and reassigned for a further hearing.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the above Supplementary Opinion and Order of the Board was adopted this 14 day of October, 1971.



Regina E. Ryan