

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1990

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| THE ENSIGN-BICKFORD COMPANY |) | |
| AND THE TROJAN CORPORATION, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | PCB 88-156 and 88-168 |
| |) | (Consolidated) |
| ILLINOIS ENVIRONMENTAL |) | (Variance) |
| PROTECTION AGENCY, |) | |
| |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by M. Nardulli);

This matter comes before the Board on a motion to modify Board order filed on October 11, 1990 by petitioner Ensign-Bickford Company and Trojan Corporation. On October 30, 1990, the Illinois Environmental Protection Agency (Agency) filed its response objecting to the motion to modify.

On August 10, 1989, the Board granted petitioner a five-year variance from 35 Ill. Adm. Code 237.102 prohibiting open burning and authorized petitioner to open burn explosive waste and explosive contaminated waste pursuant to 35 Ill. Adm. Code 237.103 subject to certain conditions. By its instant motion, petitioner seeks to modify Condition O of the Board's order which restricts the amounts of certain wastes which petitioner is allowed to open burn. Condition O provided that Ensign-Bickford shall not burn more than 100 lbs. of explosive-contaminated materials per week and that Trojan shall not burn more than 460 lbs. of explosive-contaminated materials per week.

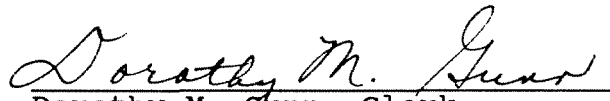
Petitioner proposes that a single limitation be imposed upon Ensign-Bickford and Trojan so that Condition O would be modified to allow petitioner to open burn 3,035 lbs. of explosive-contaminated materials per week. According to petitioner, it is no longer able to meet the current limitation because petitioner's old supplier ceased operations and petitioner's new supplier of explosives packages TNT in telescoping boxes which weigh seven times that of the old supplier's packaging. Consequently, the amount of material to be open burned has increased. Petitioner asserts that this increase would not pose any increased adverse environmental impact.

The Agency opposes the motion for modification because granting the motion would result in an additional 64.35 tons per year of explosive-contaminated materials being burned, which is four times the amount currently authorized by the Board's order of August 10, 1989. The Agency also notes that while the requested modification may not cause a violation of the NAAQS, it will result in an adverse environmental impact.

Unlike those situations where a petitioner seeks modification of an internal deadline imposed in a variance, the modification requested by petitioner would significantly alter a substantive condition imposed by the Board in granting the initial variance. The Agency correctly notes in its response that granting the requested modification by way of a motion rather than a new petition for variance deprives the public of the opportunity to participate at hearing. Because the requested modification would significantly alter the limitations imposed by the Board in granting the variance, the Board hereby denies petitioner's motion for modification. Petitioner may file a new petition for variance if it so chooses.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 8th day of November, 1990 by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board