

ILLINOIS POLLUTION CONTROL BOARD
March 16, 1978

RONALD F. CARLSON,)
)
 Petitioner,)
)
 v.) PCB 77-211
)
 ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle);

Petitioner has requested a variance from the requirements of Rule 202(b)(1) of the Board's Solid Waste Regulations and Section 21(e) of the Act. Essentially Petitioner wants to continue to operate a solid waste management site near Oquawka without an Agency permit. Petitioner claims that if he is not allowed to operate without a permit, he must close down his refuse collection business and Henderson County would be deprived of its only landfill. A hearing was held on December 29, 1977 at the Henderson County Courthouse in Oquawka.

Petitioner and his landfill were the subject of a prior enforcement proceeding before the Board. In EPA v. Ronald F. Carlson, PCB 76-29, 24PCB29 (October 14, 1976) the Board noted Petitioner's unsuccessful attempts to obtain a permit and his difficulties in locating a new site. As a part of its Order, the Board ordered the site closed and final cover applied within 60 days. More than 14 months have passed and Petitioner has still not been able to find a site. The high cost of farm land (\$3,000 per acre) is cited in the Petition as the primary factor in Petitioner's delay.

In its prior Opinion the Board found that Petitioner's site was not suitable for landfill use because of the sandy soils and the potential for water pollution. No evidence was introduced at the hearing to refute this finding. A number of citizens testified as to the need for this landfill, but no one stated how much additional cost would be incurred if an outside hauler serviced the area. Petitioner pointed out that there were a number of other landfills that would not accept his waste, but no evidence was introduced to show his additional costs, if he had to use another site further away.

Essentially nothing has changed since the Board's prior determination. Petitioner's hardship is still the same as that which was before the Board when it ruled that the site should be closed within 60 days. The Board recognized the fact that "...it could possibly be that the site would never receive a permit." Since the cost of farm land is not likely to decrease in the near future, it is apparent that Petitioner is simply trying to hang on to his refuse collection and disposal business. While Petitioner's problems may be serious, they have been weighed before, and there is no new evidence here to change the Board's prior determination. Consequently, the subject Petition for variance is denied.

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

ORDER

It is the Order of the Pollution Control Board that Petitioner's request for a variance from Rule 202(b)(1) of the Board's Solid Waste Regulations and Section 21(e) of the Act be denied.

Mr. Nels Werner dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of March, 1978 by a vote of 4-1.

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