

ILLINOIS POLLUTION CONTROL BOARD
June 3, 1976

INTERPACE CORPORATION,)	
)	
Petitioner,)	
)	
v.)	PCB 75-495
)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by Mr. Zeitlin):

This matter is before the Board on a Variance Petition filed on December 3, 1975, in which Petitioner Interpace Corporation (Interpace) requested relief from the daily cover requirements for solid waste management sites in Rule 305(a) of Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations. In an Interim Order entered January 8, 1976, the Board found Interpace's original Petition inadequate, and required the filing of additional information. Interpace then filed additional information on Feb. 9, 1976. A Recommendation was received from the Environmental Protection Agency (Agency) on April 30, 1976, to which Interpace responded on May 21, 1976. No hearing was held in this matter.

Interpace manufactures reinforced concrete pipe at its plant in Winnebago County, Illinois. As part of those operations, spillage and waste result in the generation of 2 to 3 tons of concrete wastes daily, which are disposed of in a landfill on Interpace's property. Prior to investigations by the Agency in 1975, Interpace was not aware of the requirement that all such landfill sites must receive a minimum of 6" daily cover. Because of the nature of the wastes disposed of, Interpace feels that it should be exempted from that requirement.

Environmental effects. The Agency's Recommendation supplies substance for the inferences on this issue in the Petition. Due to the nature of the concrete wastes, the Agency states that there is little, if any, likelihood of damage to the environment if the Variance is granted.

Compliance plan. Again the Agency's Recommendation shows that the eventual application of intermediate or final cover could properly achieve the goals for which the cover requirements were designed. Interpace's response to the Agency's Recommendation indicated that this should be accomplished within 12 months.

Hardship. The Agency's Recommendation noted that neither Interpace's original Petition nor the Additional Information filed pursuant to our Interim Order contained any substantive allegation of hardship, and accordingly recommended that the Variance be denied. However, Interpace's Response to the Agency Recommendation, filed May 20, 1976, shows that under present operating procedures the application of daily cover would require an expenditure of \$1,000 per week. The alternative, the purchase of a bulldozer and employment of an operator, would also require a large expenditure, substantially increasing Interpace's operating costs.

The Board has held that the lack of environmental damage, alone, cannot justify a Variance from its Regulations; such a decision would be tantamount to repeal of the general Regulations and an abdication of the Board's responsibility. Cf., Illinois Power Co. v. EPA, PCB 72-190, 6 PCB 17 (1972); Norfolk & Western Ry. Co. v. EPA, PCB 70-41, 1 PCB 218 (1971). But the Board has also held that where the likelihood of environmental damage is slight, there need be correspondingly little hardship shown to justify the grant of a Variance. See, e.g., Prayer Garden Church of God in Christ v. EPA, PCB 76-37 (April 22, 1976). Cf., Olin v. EPA, PCB 72-253, 6 PCB 311, 325 (1972).

Weighing the absence of any likelihood that the grant of this Variance would result in damage to the environment against the hardship pleaded by Interpace, we find that a Variance is warranted. We shall grant it for a period of one year, and shall require that Interpace apply all required intermediate and final cover by the end of that period.

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

ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that Interpace Corporation be granted a Variance from December 3, 1975 until December 3, 1976 from Rule 305(a) of Chapter 7: Solid Waste, of the Pollution Control Board Rules and Regulations, subject to the following conditions:

a. Petitioner shall, by the conclusion of the above Variance period, apply all cover required by Rules 305(b) and 305(c) of Chapter 7.

b. Petitioner shall, within thirty (30) days of the date of this Order submit to the Environmental Protection Agency a Certificate of Acceptance in the following form:

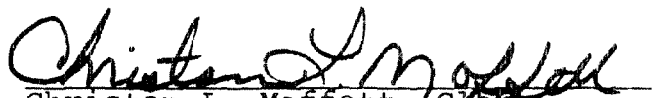
I, (We), _____ having read
the Order of the Illinois Pollution Control Board
in case No. PCB 75-495, understand and accept said
Order, realizing that such acceptance renders all
terms and conditions thereto binding and enforceable.

SIGNED

TITLE

DATE

I, Christan L. Moffett, Clerk of the Illinois Pollution
Control Board, hereby certify the above Opinion and Order were
adopted on the 3RD day of June, 1976, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board