

ILLINOIS POLLUTION CONTROL BOARD
November 23, 1971

Environmental Protection Agency)
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 v.) PCB 71-324
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Incinerator, Inc.)

Mr. James I. Rubin and Mr. Melvin A. Reiff, Assistant Attorneys
General, on behalf of the Environmental Protection Agency

Mr. Richard V. Houpt and Mr. Dennis J. Eslick, on behalf of
Incinerator, Inc.

Opinion of the Board (by Mr. Kissel):

Originally, this action was brought by the Environmental Protection Agency ("Agency") against Incinerator, Inc. asking for a cease and desist order and penalties to be assessed against incinerator for the operation of a refuse incinerator in Cicero, Illinois, in violation of the Environmental Protection Act and the Rules and Regulations promulgated thereunder. After hearings, this Board entered an order on September 30, 1971 which provided, in substance that Incinerator not operate its facility in Cicero until it had installed an interim control system to abate the nuisance which it had been causing in the neighborhood, until it repaired the thermocouple devices in the operation of the incinerator, and until it had filed a petition for variance which would contain a firm program for the installation of equipment to bring the facility into compliance with existing Illinois standards. Incinerator appeared before the Board on October 12 (pursuant to a motion filed on October 6) and asked for a stay of the original order entered by the Board and for a rehearing because of the hardship imposed by the order. After consideration of the arguments, the Board entered an order on October 14, 1971, staying the original order in respect to the cease and desist order, and the penalty to be paid. This order did, however, require operation of the incinerator at a maximum capacity of 250 tons of refuse per day at a certain moisture content, and also required that a hearing be held on November 1, at which time Incinerator was to prove that restricted operation of its facility abated, or "substantially alleviated" the nuisance conditions found by the Board. Pursuant to that order the last hearing was held before George P. Sullivan, Hearing Officer.

As required by the last order entered by the Board, the first issue which we must decide at this time is whether Incinerator is still causing a nuisance even at the reduced operation of the plant between October 12 and November 1. A review of the November 1 record indicates some dispute on the severity of the emissions from the Incinerator facility. On the one hand, witnesses testified that there was "still soot in the air" (4), there was fly ash on the ground (25-6), and that there was heavy smoke coming from the plant on two days in October (the 15th and the 18th). Other witnesses stated that the fly ash caused no particular problem. In fact, Incinerator circulated a petition which was to that effect and the petition was signed by a number of people. Above all the dispute, however, we can find agreement on one thing: Since the limitation of operation, repair of the spray system by Incinerator and repair of the thermocouples (all of which was accomplished by Incinerator in compliance with the last order of the Board), the facility has caused less of a problem than it had before October 12. One witness said that the emissions "weren't as heavy as normal", but of course admitted that they were "still there" (10). From the testimony, including that of an expert who conducted a "windblown particles" test around the plant, it is quite clear that the reduced operation with the improved sprays and repaired thermocouples has had a beneficial effect on the emissions from the plant and in the opinion of the Board no longer constitutes a nuisance as that described in the original hearing and opinion of the Board. Yes, the neighbors are still affected by the emissions, but the effect on them is not so great as to require a complete shutdown of the facility which was the Board's original order. In effect, by the operation as it is presently done, Incinerator has met the Board's original order for reducing the nuisance. For it was the Board's original intent to keep the facility closed only until the nuisance could be abated. It was not the intent of the Board to close the facility until complete installation and operation of the ultimate control equipment.

Having decided that Incinerator can operate its facility, there will be a requirement that it be operated only within the confines of the previous order of the Board. It is apparent that the limitation on the tonnage consumed by the incinerator each day, the properly operating thermocouples and the new spray equipment are the reasons that the present nuisance has been abated. We will require that Incinerator operate its facility consuming not more than 250 tons of refuse per day, that the sprays be kept in operating order, that the refuse not contain more than a 20% moisture content, and that the thermocouples be kept operational.

In addition, we will impose the general conditions that the incinerator generally be kept in good operating condition, and that it be well operated during the period of the variance.

If the sole question before the Board was whether to grant a variance without limit on the conditions that have been previously discussed, it would not be granted. One of the principle reasons for granting the variance here is that Incinerator has agreed to install control equipment within the next year which will bring the entire facility into compliance with the law. Without that plan, there would be no basis for granting the variance. Incinerator's new plan -- namely, the installation of a high energy Venturi scrubber on one of the incinerators -- will, according to the undisputed testimony, allow the incinerator to meet a standard of 0.1 grains per standard cubic foot, dry. This standard is in fact less than the Illinois standard which would require an emission of not more than 0.2 grains per standard cubic foot. Between the time of the first hearing and the last one, Incinerator has modified its program for the better. Certainly the cost will be higher (the cost of the present plan will be \$1 million) for the planned emission control equipment, but the time will be longer as well. The uncontradicted testimony was that it will take nine months from the time of awarding contracts to install the facility. Before awarding of the contracts, at least two months will be needed to prepare the bids, get the permit and generally make ready for the construction. For what is to be gained we do not think this is an unreasonable amount of time. We will therefore grant the variance for a period of eleven months from this date upon the conditions recited above and others imposed in the order.

While the operation of the incinerator has lessened the particulate emission during the period beginning with October 12, the evidence did show that the incinerator was operated at a tonnage input of less than 250 tons per day.^[1] We do allow Incinerator by this order to operate its facility at an input of up to 250 tons per day and we are not convinced that operation of the facility at the 250 ton per day level will not cause a nuisance to the neighbors. We feel, therefore, that the Agency, after consultation with the neighbors, should be able to open up these proceedings after six months of operation (May 23, 1972) if necessary, because of a possible nuisance condition created in the neighborhood. If petitioned by the Agency, the Board will, if the Agency petition is adequate to so demonstrate, hold a hearing on whether the facility should be controlled or even shut down again. The importance of a six-month period is that it will allow review after a significant period of operation and will allow us to look at the matter before the

[1] An Agency investigator testified that the incinerator burned between 77 and 226 tons per day during the month of October.

summer period of 1972. In addition to the possible re-review of the case, we also believe that Incinerator should look at the feasibility of control equipment to catch some of the large particulate matter being emitted from the stack. Incinerator should consider the installation of screening of some kind. The report will be required in thirty days.

This opinion constitutes the findings of fact and conclusions of law of the Board.

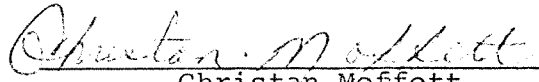
O R D E R

Upon consideration of the evidence and the exhibits, the Board hereby grants to Incinerator, Inc. a variance from the existing laws and regulations to operate an incinerator in Cicero, Illinois, under the following conditions:

1. Incinerator shall dutifully and diligently operate only one incinerator unit at its plant and that unit shall not be operated at a capacity in excess of 250 tons of refuse per day at a moisture content of not more than 20%.
2. Incinerator shall properly maintain the operating incinerator, including the thermocouples and the spray devices. Particularly, the mentioned devices shall be operational whenever the incinerator is in operation.
3. The period of this variance shall be eleven (11) months from the date herein. However, if the Agency shall so petition after May 23, 1972, the Board shall hold a public hearing on whether the operation of the incinerator has caused a nuisance, at various levels of tonnage input, to the neighbors. The Agency shall, if it petitions the Board, set forth the alternatives to be considered by the Board for abating the nuisance. The Board, then, shall make such further order at that time as the Board deems necessary under the circumstances.
4. Incinerator shall post a bond guaranteeing the installation of the control devices ordered herein and other conditions stated herein in a form approved by the Agency in the amount of \$300,000.

5. By the end of the variance herein granted, Incinerator shall have installed and operating a high energy Venturi scrubber of the type described in the transcript of proceedings so as to limit the emissions from the Incinerator facility to 0.1 grains per standard cubic foot, dry.
6. Incinerator shall within thirty (30) days submit a written report to the Board and the Agency on the feasibility of installing interim devices, i.e., mesh screening in the stacks, for capturing the large particulate matter being emitted from the stacks. The Agency shall file comments on the report with the Board within ten (10) days after Incinerator has filed its report. The Board, after receiving both reports, shall make such further orders as it shall deem necessary under the circumstances.

I, Christan Moffett, Acting Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above Opinion and Order on this 23 day of November, 1971



Christan Moffett,
Acting Clerk