

ILLINOIS POLLUTION CONTROL BOARD  
April 14, 1971

CALHOUN COUNTY CONTRACTING CORP. )  
  )  
  v.  ) # 71-14  
  )  
ENVIRONMENTAL PROTECTION AGENCY )

VILLAGE OF RIVERTON )  
  )  
  v.  ) # 71-22  
  )  
ENVIRONMENTAL PROTECTION AGENCY )

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

These are two more typical petitions seeking variances for the open burning of trees. In line with numerous precedents starting from City of Jacksonville v. EPA, # 70-30 (Jan. 27, 1971), we deny the present petitions.

The Calhoun case is quite simple. The allegations are purely conclusory; the petitioner says only that to find an alternative to burning would "impose an unreasonable additional cost" and that burning "would not endanger the normal health and general welfare of the people." Such conclusions, we held in the Jacksonville case, are insufficient; what is required is the facts. The company says it is required by its contract with the state highway people to burn trees it removes in the course of its highway project, but no such contract can abrogate the legal prohibition on burning, which has been in effect since 1965. Finally, letters appended to the Agency's recommendation should dispel the notion that the burning of trees is necessarily a harmless enterprise forbidden for whimsical reasons. These letters are from people living near one of the proposed burning sites who have been subjected to the same thing in the past and who violently object to its repetition:

I live on Wood River and near where they burnt the last time and the smoke was so bad it came in our house even at night and you couldn't hardly breathe for it. I have asthma and breathing is hard enough for me without putting up with that smoke day and night. . . .

And a second letter:

I live in a low area and the smoke settles here when the air gets heavy at night and we can't breathe. I am taking medication for sinus condition and can't tolerate smoke. . . . I live directly across the creek from where they did burn a lot for three weeks and it was terrible.

A third, on behalf of "Residents, Cottage Hills":

When the Calhoun Contracting Corp. was burning trees at the bridge site entering Cottage Hills from the west on Route 140, the smoke spread over our whole town 24 hours a day. The smoke entered our homes even at night while we were sleeping. . . . Not only us but the elderly and the little children couldn't breathe properly. . . .

The Calhoun variance clearly must be denied. Even if burning were generally permissible, it could not be done under the conditions proposed.

Riverton's case is somewhat different. The Village asks to burn 100 truckloads of brush to be cleared for beautification purposes. The petition alleges that it would cost \$1670 to haul the brush to a landfill, and the EPA recommendation adds that additional costs would be incurred to deposit the brush there. The petition states that the burning site is "remote" but gives insufficient facts to evaluate the claim; the EPA says there are homes within a quarter of a mile. The neighbors in this case applaud the Village's intentions since the burning will result in improvement of the cleared land.

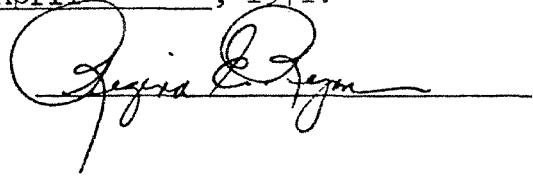
The Agency recommends denial. Our precedents establish that a few dollars spent to find alternatives to burning do not justify a variance, see *City of Winchester v. EPA*, #70-37 (Feb. 8, 1971); the petition does not state the cost of burning itself, so that we cannot determine the net cost of alternatives; and the allegations as to lack of harm are mere conclusions.

We are presently awaiting a revised proposal for open burning regulations from the Agency, and we expect this proposal will be backed by additional information on the availability of alternatives to open burning of trees. If in the proceedings following receipt of that proposal we are convinced that open burning under appropriate restrictions is the least undesirable method of disposal, we shall amend the regulations accordingly. Petitioners in the meantime should take notice that we shall adhere to our present policy of denying these variances unless a better case can be made than in the past.

The petitions for variance are denied.

This opinion constitutes the Board's findings of fact, conclusions of law, and order.

I, Regina E. Ryan, certify that the Board has approved the above opinion this 14 day of April, 1971.

A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.