

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

ARTHUR LIGHT,)
)
 Petitioner,)
)
 v.) PCB 79-172
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

OPINION OF THE BOARD (by Mr. Dumelle):

On April 12, 1979 the Board entered an Order in EPA. v. Arthur Light, PCB 78-30, 33 PCB 341 which found Petitioner in violation of the Solid Waste Rules and the Act, ordered Petitioner to apply cover to his solid waste disposal site and obtain an operating permit within 120 days, and assessed a penalty of \$200. On August 9, 1979 Petitioner requested a 90 day extension of time to obtain his operating permit. This request was construed as a petition for variance (35 PCB 189, August 23, 1979). The Agency recommended that a variance be granted subject to conditions. No hearing was held. On January 24, 1980 the Board granted Petitioner a variance from the 120 day requirement in PCB 78-30 provided that cover be applied and an operating permit be obtained by March 31, 1980. If the March 31, 1980 deadline is missed, Petitioner shall cease operations. This Opinion supports the Board's January 24, 1980 Order.

The nature of Petitioner's operations were discussed in PCB 78-30 and need not be repeated here. Petitioner did not state any reason why he could not comply with the original August 10, 1979 deadline.

In its Recommendation the Agency stated that the filling required in PCB 78-30 had not been completed by December 14, 1979 and that Petitioner's project engineer had requested an additional 90 days to complete this work. The Agency felt that granting a variance until March 31, 1980 would not result in additional environmental damage but that an extension beyond that date might allow melting snow to cause washing or leaching of contaminants. As insurance to force timely compliance, the Agency requested that a \$5,000 performance bond be posted.

The Board concludes that denial of a variance would constitute arbitrary or unreasonable hardship. Since Petitioner is not presently allowed to conduct any refuse disposal operations and the ground will probably remain frozen during the term of this variance, the chance for environmental harm seems slight. By requiring the filling to be done and an operating permit to be obtained by March 31, 1980, problems from leaching and runoff should be avoided. While the Board has not seen fit to require a performance bond, Petitioner should understand that he must properly close his site if he chooses not to resume operation.

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

Mr. Werner dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 7th day of February, 1980 by a vote of 3-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board