

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1982

CHICAGO HOSPITAL COUNCIL,)
)
) Petitioner,)
)
) v.) PCB 81-160
)
) ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

RICHARD M. KRIEG TESTIFIED ON BEHALF OF THE PETITIONER:

DONALD L. GIMBEL APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on the petition for variance filed by the Chicago Hospital Council (CHC) on behalf of several hospitals seeking relief from Rule 902 and 903 of Chapter 9: Special Waste, which prohibits the deposit of "hazardous (infectious) hospital waste" (HIHW) in any Illinois landfill. The original petition, filed October 1, 1981 sought relief on behalf of 47 unnamed hospitals. An amended petition, filed December 4, 1981, pursuant to the Board's Order of October 22, 1981, noting certain other deficiencies, sought relief on behalf of 31 named hospitals. This amended petition was also found to be deficient, and on December 17, 1981 the Board on its own motion directed that the matter proceed to hearing, at which such deficiencies could be corrected and public comment heard. On February 26, 1982 the Agency filed its Recommendation that variance be denied, on the grounds that the petition "is for the most part insufficient to allow the Agency to make an adequate Recommendation".

Hearing was held in this matter on May 3, 1982 at which no members of the public were present. At hearing, on stipulation of the parties, affidavits from 10 hospital administrators were presented in lieu of live testimony. On the hearing record, the Agency amended its Recommendation to support grant of variance from Rules 902 and 903 of Chapter 9 to each of the 10 hospitals for the periods of time indicated in their respective affidavits.

Of the 10 hospitals involved, 8 are located in Chicago, and are Swedish Covenant Hospital, Henrotin Hospital, Martha Washington Hospital, Hospital of Englewood, Ravenswood Hospital, Columbus Hospital, Frank Cuneo Hospital, and St. Francis X. Cabrini Hospital.

The other 2 hospitals are Gottlieb Memorial Hospital in Melrose Park and Oak Park Hospital in Oak Park. To avoid any confusion as to the exact coverage of this Opinion and Order, the Board hereby joins the 10 hospitals as parties in this action pursuant to Procedural Rule 303(c).

Part IX of Chapter 9, prohibiting the landfill disposal of HIHW and providing for its disposal by incineration and sterilization, became effective January 1, 1981 to implement the legislative prohibition of Section 21(1) of the Act (as presently codified) effective the same day. All Illinois hospitals were given a one-year variance from these rules, adopted as emergency rules only shortly before the statutory deadline, in Mercy Hospital, et al. v. IEPA, PCB 80-218 (December 19, 1980 and January 22, 1981), to allow for orderly, environmentally sound disposal of waste pending development of compliance plans.

The original and amended petitions submitted by the CHC stated that the CHC had begun investigating possible solutions to the waste disposal problems of its 103 members beginning in fall, 1980. By January, 1981 CHC had explored the initial feasibility of building and operating a non-profit hospital waste incinerator. This was to be a "Waste-to-Energy" project, wherein incineration modules would be sited near CHC's existing Hospital Laundry Services operations, which are located at 2500 W. Addison and 4441 W. Chicago in Chicago. HIHW was to be incinerated and steam generated for the laundry's use, which would offset a significant portion of the laundry's natural gas costs.

In May, 1981 the 47 hospitals alluded to in the original petition had indicated interest in the project, and CHC commissioned a final technical/engineering feasibility study. The report was completed in October, 1981, and anticipated that an incinerator could be on line by the third or fourth quarter of 1982. Variance was accordingly requested until January 1, 1983.

The information presented at hearing would indicate that the "Waste-to-Energy" project has been abandoned for one reason or another. Each of the 10 hospitals presenting evidence at hearing had participated in project discussions during the period of the Mercy Hospital variance, but each has arrived at compliance decisions which do not involve the proposed CHC incinerator.

Swedish Covenant Hospital, 5145 N. California, Chicago is a 324 bed, 26 bassinets general acute care hospital generating 20 pounds of HIHW daily. This waste is currently being disposed of by Garden City Waste Disposal Co. and City Waste Systems, Inc. The hospital has determined that installation of a hazardous waste sterilizer is the most effective compliance option, and has ordered a sterilizer whose purchase and installation will cost \$14,706. It seeks variance until July 1, 1982, to allow for the sterilizer's delivery and installation.

Henrotin Hospital, 111 West Oak St., Chicago, is a 201 medical-surgical bed general acute care hospital generating 125 pounds of HIHW daily. This waste is currently being hauled by Acme Scavenger Service for disposal at a landfill operated by Strikin International. Henrotin determined that its existing incinerator could not qualify for the class of permit necessary to allow for lawful incineration of its HIHW. It accordingly has contracted for removal of the incinerator and installation of a sterilizer, which was anticipated to be on line May 11, 1982. Costs expended in pursuit of compliance, including consulting fees and facility remodeling, have been \$30,506.00.

Martha Washington Hospital, 4055 N. Western Ave., Chicago, is a 199 bed general acute care hospital generating 20 pounds of HIHW daily. This waste is currently disposed of by Garden City Disposal Co., Inc. Laboratory waste, needles and syringes are currently being sterilized prior to disposal, but the hospital lacks sterilizer capacity to treat the remainder of its HIHW. This hospital also has chosen to purchase a sterilizer, at costs of \$15,106, which is expected to be on line by August 1, 1982.

Hospital of Englewood, 6001 S. Green St., Chicago is a 170 bed, 21 bassinet general acute care hospital generating 35 pounds of HIHW daily. Its waste is currently being disposed of by Ace Disposal Systems. This hospital seeks variance until August 1, 1982 to allow it to continue to explore compliance options. It has been attempting to determine whether its existing incinerator can be utilized, but has been unable to get approval from the City of Chicago's Environmental Control Division, as that body will not inspect the incinerator until it receives specifications from the Agency stating what the Agency considers to be an acceptable incinerator. Englewood would prefer to get the City's opinion concerning the existing facility, prior to committing to expenditures of \$37,000 for a new incinerator. The hospital also continues to explore use of commercial waste disposal companies.

Gottlieb Memorial Hospital, 8700 W. North Ave., Melrose Park, is a 283 bed, 42 bassinet general acute care hospital, generating 66.3 pounds of HIHW daily. Its waste is currently being disposed of by Charles Lenz and Co. This hospital has determined to purchase a sterilizer, to be on-line by September 1, 1982. Costs to be incurred, including consulting and site renovation fees, are estimated to be \$119,000.

Oak Park Hospital, 520 S. Maple Ave., Oak Park, is a 375 bed 24 bassinet hospital generating 53.6 pounds of HIHW daily. The waste is currently hauled by Van Der Molen Disposal Co. to a landfill for disposal. Pathological waste is sterilized prior to disposal, but the hospital lacks sterilizer capacity to so treat the remainder of its HIHW. This hospital has chosen to purchase a sterilizer, which was ordered in March, 1982 and would seem to be expected to be on line by September, 1982. In Oak

Park's opinion, the anticipated \$15,000 initial cost and \$2,000 yearly operation cost compares favorably with the \$25,000 yearly cost for disposal of hazardous waste quoted by P.E.S. Inc.*

Ravenswood Hospital, 4550 N. Winchester, Chicago, is a 462 bed, 19 bassinets general acute care hospital generating 400 lbs of HIHW weekly, which is disposed of in a landfill. This hospital has chosen to purchase an incinerator at a cost which has not been specified, which is to be installed by June 30, 1982.

Columbus Hospital, 2520 N. Lakeview Ave., Chicago, is a 556 bed, 22 bassinets general acute care hospital, generating 700 pounds of HIHW weekly. This waste is hauled by C. Groot, Inc. for landfill disposal at CID, Inc. The hospital has chosen to purchase a sterilizer to be operational by November, 1982, with purchase and installation costs totalling \$22,000.

Frank Cuneo Memorial Hospital, 750 W. Montrose Ave., Chicago, is a 216 bed general acute care hospital generating 160 pounds of HIHW weekly. This waste is currently hauled by C. Groot, Inc. for landfill disposal by CID, Inc. Cuneo plans to transport its waste 2 miles south in a Columbus Hospital permitted truck to Columbus Hospital, where the waste will be rendered innocuous through sterilization. The system is expected to be operational November 3, 1982.

Francis X. Cabrini Hospital, 811 S. Lytle Ave., Chicago, is a 213 bed, 25 bassinets general acute care hospital, generating 200 pounds of HIHW weekly. This waste is currently hauled by C. Groot, Inc. for landfill disposal by CID, Inc. Cabrini plans to transport its waste 8 miles south in a Columbus Hospital permitted truck to Columbus Hospital, as does Cuneo, effective November 3, 1982.

The Board finds that each of the hospitals has proven that denial of variance would impose an arbitrary or unreasonable hardship. As each hospital was participating in the CHC proposed, but seemingly abandoned, plan for centralized disposal of HIHW by incineration, the Board finds the delay in compliance since the end of the previous variance period to be justifiable, particularly since all but one hospital has expeditiously proceeded to pursue individual compliance options which will be fully implemented within, at the latest, five months. Neither the Agency nor the public has brought to the Board's attention indications that harm

* PES, Inc. filed a comment May 18, 1982 disputing this figure, and stating that the hospital was quoted an \$11,000 yearly figure. It also noted that the \$30,000 figure quoted to Martha Washington by an unnamed firm was high, given that PES' services would cost about \$6,000. PES currently contracts with hospitals to haul HIHW to the TWI incinerator in Sauget, Illinois. PES is of the opinion that continued landfill disposal of HIHW should not be allowed.

to the environment or the public health has resulted from landfill disposal of HIHW during the course of the PCB 80-218 variance period. The Board therefore believes that variance relief may be continued for the short time periods here involved at less potential risk than would be involved by unauthorized disposal or storage of HIHW, rather than under conditions the Board would impose in a variance.

Variance is granted from Rule 902 of Chapter 9 to each of the ten above-listed hospitals for the terms and under the conditions outlined in the attached Order; variance from Rule 903 is denied as unnecessary. Variance is denied as to CHC itself, which needs none, and to the 21 hospitals named in the December 4, 1981 petition who did not submit evidence at hearing.

Approximately 4 weeks has been added to most hospital's requested variance terms, as a slight cushion for start-up delays. While Henrotin Hospital should, according to its affidavit, have been in compliance as of May 11, 1982, variance is granted until July 1, 1982 for like reason.

The situation of the Hospital of Englewood merits individual comment. As Englewood has not settled on a permanent compliance method, it will be required to file a compliance plan on or before August 1, 1982, and will be granted a variance until September 1, 1982. The Board is concerned that Englewood has seemingly been caught in the middle of imperfect communication between the Agency and the City of Chicago concerning incinerator requirements, and requests that the Agency make every effort to clear up any existing uncertainty on the City's part to enable Englewood to make an intelligent assessment of its problems and compliance options.

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

ORDER

1. The following hospitals are hereby joined as petitioners in this action: Swedish Covenant Hospital, Henrotin Hospital, Martha Washington Hospital, Hospital of Englewood, Ravenswood Hospital, Columbus Hospital, Frank Cuneo Hospital, and St. Francis X. Cabrini Hospital, Oak Park Hospital, and Gottlieb Memorial Hospital.

2. Variance is hereby denied the Chicago Hospital Council as unnecessary. Variance is also denied to those 21 hospitals named in the amended petition of December 4, 1982 (none of which are listed in paragraph 1 above), for failure of proof.

3. Variance from Rule 902 of Chapter 9: Special Waste is granted to the following petitioners for the following periods:

July 1, 1982: Henrotin Hospital;

August 1, 1982: Swedish Covenant Hospital, Ravenswood Hospital;

September 1, 1982: Martha Washington Hospital;

October 1, 1982: Hospital of Englewood, Gottlieb Memorial Hospital, Oak Park Hospital;

December 1, 1982: Columbus Hospital, Frank Cuneo Memorial Hospital, Francis X. Cabrini Hospital;

which variance is subject to the following conditions:

a) The Hospital of Englewood shall submit to the Agency on or before August 1, 1982 a program (with increments of progress) for bringing its disposal operations into compliance with hospital waste disposal standards. Each of the remaining hospitals shall follow the compliance plan contained in its affidavit submitted at the May 3, 1982 hearing in this matter, all of which affidavits are incorporated herein by reference as if fully set forth.

b) This variance does not authorize petitioners to relax the level of control presently provided by it for the handling of its wastes.

c) This variance shall terminate at such earlier time as compliance is achieved.

d) Hazardous hospital waste must be suitably bagged or contained so as to prevent the spread of its infectious agents before it is transported to or disposed of in any landfill.

4. Consistent with the terms of this Order, any landfill operator who may now accept hazardous hospital waste is hereby authorized to continue to accept and dispose of such waste generated by any hospital listed in paragraph 3 above, for the term there listed.

5. Within forty-five days of the date of this Order, each Petitioner hospital shall execute and forward to the Illinois Environmental Protection Agency, Enforcement Programs, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of certificate shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-160 dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By

Title

Date

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of June, 1982 by a vote of 5-0.

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