

ILLINOIS POLLUTION CONTROL BOARD

August 23, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 73-47
)
 STEVE LYONS, d/b/a S & M)
 AUTOMOTIVE,)
)
 Respondent.)

Samuel Morgan, Assistant Attorney General for the Agency
Steve Lyons per se

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

The Environmental Protection Agency filed its Complaint alleging that Steve Lyons, d/b/a S & M Automotive, had caused or allowed the open burning of refuse on or about June 29, 1972 in violation of Section 9(c) of the Environmental Protection Act and Rule 502(a) of the Open Burning Regulations.

Public hearing revealed that Respondent conducts an automobile salvage operation near Oregon in Ogle County, Illinois. Lyons purchased the business on May 18, 1972, at which time the property was reportedly littered with garbage, piles of seatcovers and tires, and other assorted refuse.

At about 6:45 p.m. on the date alleged, a fire of considerable magnitude occurred at the salvage site. Two Agency investigators happened to be in the area and were drawn to the site by "great billows of dark smoke". Dr. Stevens of the Ogle County Health Department testified that he was contacted at 6:45 p.m. by a deputy sheriff and informed of the fire. Two volunteer fire units were dispatched to the scene.

There were several different fires. Agency investigator Goff estimated that over 400 tires were on fire in one area. Photographs taken at the scene show the dense smoke emissions. In addition to burning tires, automobile hulks and other discarded automobile parts, the photographs show uncovered garbage mixed in the other refuse.

Appearing without benefit of counsel, Respondent Lyons testified that he and his employees were on a break in his apartment at the opposite end of the salvage yard when the fire started. Upon leaving the apartment, Lyons observed the smoke and dispatched an employee to determine the extent of the fire. The employee reported that he had observed "some tires burning and a car burning". Lyons then went to the burning area in order to determine the extent of the fire for himself. After viewing the fire, Lyons returned to the other end of the salvage yard where he encountered a deputy sheriff. Lyons indicated he informed the deputy sheriff that he did not have insurance and, for this reason, the fire department was not called immediately. Since the salvage yard did not have water service, Lyons testified that he did not halt routine work and ask employees to extinguish the fire. He said "I saw no reason for my men to discontinue working and stand around watching a fire that they can't control anyway". (R. 29).

Respondent said he did not set the fire but also admitted that he did not do everything possible to terminate the fire (R. 35). He testified "I stated to the officers at the time that there was nothing that it was going to hurt by burning, however, at the time I wasn't thinking about the EPA laws". (R. 35). Lyons also testified that the Oregon Fire Department would have charged him \$200 if he had requested their help in extinguishing the fire.

None of the witnesses in the public hearing knew the origin of the fire. Lyons felt the fire should be attributed to vandalism because at least one fire was observed at an unspecified distance from the major fire.

We find nothing in the record to indicate that Respondent actually ignited the debris. However, the constant threat of fire is inherent in salvage operations which use cutting torches around combustible automobile parts and gasoline tanks. Respondent testified that he had been involved in salvage operations since at least December 1971 and, from prior experience with salvage yards, should have been fully aware of the very real possibility of a fire at this site. Uncovered garbage and assorted combustible refuse accumulated where no water is available are an invitation to serious fires.

The record clearly shows that Respondent made no effort to extinguish the fires, choosing to save a \$200 fire fighter's fee. An Agency investigator even observed a workman using a cutting torch at the site while the fire raged unchecked.

Evidence indicates that conditions at the site are now much the same as when the fire occurred in June 1972. Lyons admitted that another load of at least 500 tires has been added to the other

debris at the site. We find nothing in the record to show that Lyons has done anything to prevent another large fire from occurring.

Based on the record, we find Respondent guilty of allowing open burning as charged. We believe Respondent's past record indicates that operations will continue much as they have in the past unless he is required to conduct a "clean" operation. Our Order will so provide. The monetary penalty will be \$500. This should clearly indicate to Respondent that, it is not only better for the environment, but it is less expensive to control fires.

ORDER

It is the Order of the Pollution Control Board that:

1. Steve Lyons shall pay to the State of Illinois by September 27, 1973 the sum of \$500 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.
2. Respondent shall cease and desist from open burning in violation of the Environmental Protection Act and the Regulations of the Pollution Control Board.
3. Respondent shall remove all garbage and refuse having no resale value from the site by September 27, 1973. This material shall be deposited in an approved sanitary landfill. All remaining salvageable items shall be stored at a safe distance from any operations involving cutting torches to reduce the possibility of unlawful open burning. Combustible items having no resale value shall be removed from the site on a weekly basis after September 27, 1973.
4. Respondent shall by September 27, 1973 have made arrangements for a water supply adequate to extinguish fires that may occur in the future. In the alternative, Respondent may elect to purchase fire extinguishing equipment, to be permanently located on site, sufficient to control fires that may occur in the future.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 23rd day of August, 1973 by a vote of 3-0.

Christan L. Moffett