## ILLINOIS POLLUTION CONTROL BOARD May 17, 1972

ENVIRONMENTAL PROTECTION AGENCY )

#72-44

v.

GEORGE KNIGHT

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.)

On April 4, 1972, the Board entered an Order in the abovecaptioned matter providing as follows:

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- "1. George Knight shall cease and desist from violation of Section 9(a) and 9(c) of the Environmental Protection Act and of Rule 402 of Chapter 3, Part IV of the Illinois Pollution Control Board Rules and Regulations.
  - 2. George Knight shall, within 35 days from the entry of this order, pay to the State of Illinois the sum, in penalty, of \$250.00. Such payment shall be made in cash, certified check or money order to the Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706."

On May 8, 1972, we received a petition for re-hearing asserting as the reasons therefore, the following:

"1. The penalty imposed is too severe, having regard to the nature of the offense.

- (a) The decision of the Board overlooks the fact that Mr. Knight was not a repeated offender, that there was only one complaint concerning said offense, and that no one was detrimentally affected by the burning on this one, isolated occasion, the nearest habitation being 100 yards from the burning site.
- (b) While the decision of the Board recited that Mr. Knight was ignorant of the law, it fails to take into account that Mr. Knight was burning refuse, debris and litter, the removal and destruction of which is within the spirit of, and in harmony with, the objects and purposes of the Environmental Protection Act, and that said burning was not of an industrial product or by-product."

"2. The true object of the Environmental Protection Act should be to seek and obtain compliance with said Act, and not to punish.

> (a) A person who, by reason of his ignorance of the Act, which was new, and, in the respect in which enforcement was sought here, was little publicized, and who, upon becoming informed of the provisions of said Act, agreed to cease and desist from further violation, and who has, in fact, ceased and desisted from any further violation, should not be subjected to the severe penalty imposed by the Board in this case."

"3. Respondent has cooperated with the Board, and, by stipulation to the facts of the matter, has eliminated the necessity and expense of a formal hearing, including the production of witnesses to prove the case against him."

The reasons asserted, even if true, do not entitle respondent to a re-hearing of the case nor is any error or misunderstanding on the part of the Board asserted that requires a modification of the order. All matters alleged were or should have been asserted as a part of the stipulation or, alternatively, should have been brought out in a hearing in the absence of a stipulation.

We find the contentions lacking in merit and deny the petition for re-hearing.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion was adopted on the <u>17</u> day of May, 1972, by a vote of  $\frac{4}{4}$  to 0.

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