

ILLINOIS POLLUTION CONTROL BOARD
October 14, 1976

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-106
)
ROBERT S. MARTIN, SR. and)
LOIS MARTIN,)
)
 Respondents.)

Mr. John Van Vranken, Assistant Attorney General, Attorney
for Complainant
Mr. Craig A. Randle, Londrigan & Potter, Attorney for
Respondent

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter comes before the Board on a Complaint filed April 19, 1976 by the People of the State of Illinois charging that Respondents caused or allowed the open burning of refuse on their property in violation of Rule 502(a) of the Air Regulations and Section 9(c) of the Environmental Protection Act. Hearing was held in this matter on July 7, 1976 at which time the parties informed the Hearing Officer of the relevant provisions of a Stipulation of Parties and Proposed Settlement.

The Complaint alleges and Respondents admit that they are the owners of an 8.94 acre parcel of land located in the Northwest 1/4 of the Southeast 1/4 of Springfield Township in Sangamon County. On April 8, 1976, Respondents caused or allowed the open burning of wood, plastic and other material on this property. In mitigation, Respondents submit that portions of Respondents' property, including the area on which the fire occurred, have been and are being used by various third parties, including construction companies in connection with highway construction. Respondents also point out that the Complaint is concerned with only one incident of open burning and there has never been any allegation that Respondents have engaged in a continuous course of illegal conduct.

The parties agree that a cease and desist order should be entered and that Respondents should be required to take reasonable steps to see that open burning violations do not occur on their property due to actions of third parties. The parties agree that

Respondents' property has social and economic value to the community but that violations of the Act and applicable Rules and Regulations constitute a potential for injury or interference with the protection of the health, general welfare, and property in the community. Finally, the parties agree that considering the nature of Respondents' property, the uses to which the property has been put, and Respondents' financial condition, a \$150.00 monetary penalty is appropriate in this matter and is not more than is necessary to aid in the enforcement of the Act.

In consideration of the foregoing the Board finds that Respondents caused or allowed open burning on their property on April 8, 1976. The Board finds the Stipulation of Parties and Proposed Settlement acceptable and will assess a penalty of \$150.00 for the violation found herein. Finally, Respondents will be ordered to cease and desist the violation and to take reasonable steps to insure that such open burning violations do not occur in the future.

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

ORDER

1. Respondents, Robert S. Martin and Lois Martin, are found to have caused or allowed open burning in violation of Rule 502(a) of the Air Rules and Section 9(c) of the Act and shall be jointly and severally liable for the penalty of \$150.00 assessed for this violation. Penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of the date of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.

2. Respondents shall cease and desist all violations found herein.

3. Respondents shall take reasonable steps to insure that open burning violations do not occur in the future due to actions of third persons and shall submit within 35 days of the date of this Order to the Office of the Attorney General and the Board a written report of the steps they will take to comply with this provision.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of October, 1976 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board