

ILLINOIS POLLUTION CONTROL BOARD

October 24, 1972

ENVIRONMENTAL PROTECTION AGENCY)

v.)

PCB 71-370

CONRAD BOSCH, d/b/a)
BOSCH TRUCKING COMPANY, INC.)

OPINION & ORDER OF THE BOARD (by Mr. Dumelle

This is an enforcement action alleging that an open burning permit was issued to the respondent by the Agency on November 10, 1971 for a period not to exceed ten days from the date of issuance and that said permit was subject to certain conditions which, if violated, would void the permit. It is further alleged that the respondent caused or allowed the burning of landscape waste near Peoria from November 11 thru November 21, 1971, in violation of conditions Nos. 1, 4, 5, 7, 8 and 9 of said permit; but the charges pertaining to conditions Nos. 5, 7, and 9 were withdrawn at the hearing. Also the charges for November 19, 20 and 21 were withdrawn. Condition No. 1 of the permit requires that the open burning shall be conducted under the direction of supervisory personnel. Condition No. 4 limits the hours of open burning between 10:00 a. m. and 4:00 p. m. and also states that the quantities of materials to be burned shall be restricted to an amount which can be consumed within those hours. Condition No. 8 provides that ashes, residue, etc., shall be disposed of in such a manner as not to cause air, land or water pollution. It is also alleged that the respondent caused or allowed the open burning of refuse on two additional days but those charges were also withdrawn at the hearing. The hearing was held on September 15, 1972.

The only Agency witness, who lives near the burning area, testified that he observed eighteen large piles of lumber, old trees, rubble and other debris being set on fire on the respondents property on November 11, 1971. The witness had actually entered the property on that day and saw all the piles burning out of control, unattended. He stated that the fires were of a white hot intensity in the middle. The first were within 200 yards from the witness' home. He testified that the fires continued thru November 21, 1971 but that they did begin to diminish around the seventh day.

At a hearing an oral stipulation was entered into on the record between the parties. As part of the stipulation the respondent admitted to the charges for the days of November 11 thru November 18. It was also stipulated that the respondent shall cease and desist from future violations as alleged in the complaint. The Agency recommended only a minimal penalty.

The respondent offered testimony in mitigation only. He had purchased the 78-acre property some time ago with the intention of clearing it, leveling it and devoting it to economic use as commercial and industrial property. At the time he acquired the property there were two large gulleys filled with trees and substantial undergrowth. In the process of converting this property to economic use he had to do a considerable amount of cutting, filling and leveling. As a result, he accumulated much debris such as trees and brushes.

He further testified that his property lies directly in the flight pattern of one of the Greater Peoria Airport runways and that the airport people had asked him to refrain from burning the debris until they had completed repair work on the runway. After the airport work was completed he applied for the permit from the Agency.

He stated that there were six or seven piles of debris and that they were no closer than 920 feet from the nearest residence. He had notified the fire department that he had the permit and that he would begin burning on November 11. The fire department arrived after the fires were lit, looked at the permit and left with no objections. The respondent further testified that he does not intend to ever again have any fires on his property.

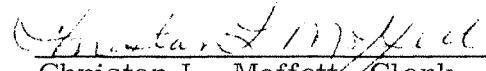
We find that the violations did occur as alleged and stipulated. We also find that the respondent did take some precaution and that the burning was not done in a totally irresponsible manner. The respondent did have a permit and did attempt to adhere to its conditions. We believe that he acted in good faith. Therefore a small penalty of \$250 would be appropriate under these circumstances.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. Respondent shall cease and desist from all violations alleged in this complaint.
2. Respondent shall pay to the State of Illinois, by December 1, 1972, the sum of \$250 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 Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24th day of October, 1972 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

