

ILLINOIS POLLUTION CONTROL BOARD

April 4, 1972

ENVIRONMENTAL PROTECTION AGENCY     )  
  )  
                                  v.     )  
  )  
GEORGE KNIGHT                            )  
  )

PCB 72-44

ENVIRONMENTAL PROTECTION AGENCY     )  
  )  
                                  v.     )  
  )  
JAMES (Rusty) KRUSE                    )  
  )

PCB 72-45

For PCB 72-44:  
Wayne Golomb, Attorney for the Environmental Protection Agency  
R. G. Heckenkamp, Attorney for George Knight

For PCB 72-45:  
Thomas J. Immel, Attorney for the Environmental Protection Agency  
Eldon Fuchs, Attorney for James (Rusty) Kruse

Opinion and Order of the Board (by Mr. Aldrich):

The above-entitled causes are similar enforcement actions in which the Environmental Protection Agency ("Agency") alleges violations of air pollution regulations by the conduct of open burning. In both cases the parties stipulated to certain material facts to obviate the necessity of a public hearing before a representative of the Board. In neither case did any member of the public express an interest in attending such a hearing. We find that no public hearing is necessary and that we are able to rule on the basis of the facts stipulated to in each case.

Respondent Knight owns and operates an amusement park in Springfield, Illinois. In its amended complaint, the Agency alleges that on or about October 18, 1971, Mr. Knight caused or allowed open burning of refuse in violation of Sections 9(a) and 9(c) of the Environmental Protection Act ("Act") and of Rule 402 of Chapter 3, Part IV of the Illinois Pollution Control Board Rules and Regulations. An Agency inspector observed open burning on Respondent's premises on October 8, 1971. A number of photographs depict the burning that occurred on that date (Ex. 2). Large quantities of heavy black smoke were produced. Respondent stipulates that he did conduct open

burning of refuse on October 8, 1971, but that no subsequent open burning had occurred. His sole defense was ignorance of the law (Ex. 3). Mr. Knight agrees to cease and desist from further violations of the law with respect to open burning. We shall so order and for the aforementioned violation we shall assess a penalty of \$250.00.

Respondent Kruse owns and operates an automobile salvage yard located near Eitchfield, Illinois. The Agency alleges that on several occasions subsequent to July 1, 1970, and prior to September 3, 1971, Mr. Kruse open burned automobiles and other debris in violation of Section 9(a) and 9(c) of the Act and of Rule 2-1.1 and Rule 2-1.2 of the Rules and Regulations Governing the Control of Air Pollution. Respondent is also alleged to have open burned automobiles on several occasions subsequent to September 2, 1971, in violation of Section 9(a) and 9(c) of the Act and of Rule 402(a) of Chapter 3, Part IV of the Illinois Pollution Control Board Rules and Regulations. An attorney for the Agency observed the burning of four automobiles on Respondent's salvage yard on September 9, 1971. Mr. Kruse stipulates that he did open burn automobile bodies on this date and stipulates further that on four other dates (September 2, 3, 7 and 8, 1971) he open burned trash and other debris. No open burning has occurred at the site since September 10, 1971. The parties to the case propose that we enter an order requiring Respondent to cease and desist from further violations and to pay a penalty of \$1000.00 for past violations. We think this is a just and equitable proposal. A substantial money penalty is appropriate in view of the fact that Mr. Kruse not only open burned trash on several occasions but also conducted a salvage operation by open burning, an act specifically prohibited by Section 9(c) of the Act. We shall enter an order in accordance with that proposed by the parties to the case.

#### ORDER

PCB 72-44, George Knight

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.

PCB 71-45, James (Rusty) Kruse

1. James (Rusty) Kruse shall cease and desist from violation of Section 9(a) and 9(c) of the Environmental Protection Act and of Rule 402(a) of Chapter 3, Part IV of the Illinois Pollution Control Board Rules and Regulations.
2. James (Rusty) Kruse shall, within 35 days from the entry of this order, pay to the State of Illinois the sum, in penalty, of \$1000.00. 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.

I, Christan L. Moffett, Clerk of the Pollution Control Board certify that the Board adopted the above Opinion and Order this 4<sup>th</sup> day of April, 1972, by a vote of 4 to 0.

*Christan L. Moffett*

