

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

DUPAGE COUNTY HEALTH DEPARTMENT,)
)
 Complainant.)
)
 v.) PCB 79-152
)
 DALE C. BINA,)
)
 Respondent.)

MR. JOSEPH E. BONK, ASSISTANT STATES ATTORNEY OF DUPAGE COUNTY,
APPEARED ON BEHALF OF THE COMPLAINANT.

MR. DALE C. BINA APPEARED PRO SE.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed by the DuPage County Health Department on August 1, 1979. The complaint alleges that Respondent, Dale C. Bina, openly burned landscape waste on April 24, 1979 and April 25, 1979 in violation of Rules 502 and 503(c)(4)(v) of Chapter 2: Air Pollution Control Regulations (Chapter 2). Rule 503(c)(4)(v) specifically prohibits the open burning of landscape waste in rural areas 1000 feet or less from a municipality in which open burning of landscape waste is prohibited. The Village of Wheaton makes it "unlawful to set fire to or burn any grass or wooded plot or the herbage or shrubbery in any place in the city" (Ex. 4).

A hearing was held in Wheaton on November 13, 1979; members of the public attended, but did not comment. On April 24, 1979 Mr. Orville L. Meyer observed Respondent burning a pile of landscape waste that had apparently just been ignited (R. 7). Mr. Meyer notified Respondent that the burning of landscape waste was prohibited (R. 7). Respondent then put out the fire (R. 17). At approximately the same time the next day Mr. Meyer again saw smoke at the site (R. 8). Mr. Bina states that he did not reignite the fire (R. 35). He found coals had ignited a couple of branches which he put out again (R. 35). Mr. Bina was trimming the wastes and using it as kindling and firewood; he burned only a small pile of branches (R. 30, 31).

Mr. Meyer testified that the fire was burning thirty or forty feet from Shaffner Road and that Wheaton is "right across Shaffner Road" (R. 10).

The Board finds that Respondent was in violation of Rule 503(c)(4)(v) and consequently Rule 502 of Chapter 2. Before the Board determines what penalty is necessary it must consider the factors enumerated in Section 33(c) of the Environmental Protection Act (Act). Respondent admits to open burning which is a violation of the regulations; however, this incident did not produce great quantities of air pollution. There was little social or economic value to burning the trimming from the firewood. It would be technically and economically feasible to dispose of these wastes by hauling them away to a proper disposal site. The unsuitability of the pollution source at this location is the very reason for this violation. The Board finds that a penalty of \$25 is sufficient to aid the enforcement of the Act.

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


ORDER

It is the Order of the Pollution Control Board that:

1. Respondent, Dale C. Bina, is found to have violated Rule 503(c)(4)(v) and consequently Rule 502 of Chapter 2: Air Pollution Control Regulations.
2. Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$25 which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
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 7th day of February, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board