

ILLINOIS POLLUTION CONTROL BOARD  
June 28, 1977

ENVIRONMENTAL PROTECTION AGENCY,            )  
  )  
  Complainant,            )  
  )  
  v.                                    )  
  )  
  )  
  PCB 77-8  
  )  
AVENUE BANK AND TRUST COMPANY OF            )  
OAK PARK, as Trustee under Trust            )  
No. 1327, and HAROLD N. SIMPSON,            )  
  )  
  Respondents.            )

Ms. Helga E. Huber, Assistant Attorney General, appeared on behalf of the Complainant.  
Mr. James I. Rubin appeared on behalf of Respondents.

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

On January 7, 1977 the Environmental Protection Agency (Agency) filed a complaint before the Board alleging Avenue Bank and Trust Company of Oak Park (Avenue Bank), as trustee of Illinois Land Trust No. 1327, owns a parcel of land, including two peat bogs, located at or near President Street and Gunderson Road, DuPage County, Illinois. It is further alleged that Respondent, Harold N. Simpson, as beneficiary of the trust owns the parcel of land in question; and that on several dates Respondents caused or allowed the combustion of peat in violation of Rule 502 of the Chapter 2: Air Pollution Regulations (Regulations) and Section 9(a) of the Environmental Protection Act (Act).

A hearing was held on April 27, 1977. At this time a Stipulation and Proposal for Settlement was presented for the Board's approval. No testimony was given.

The stipulation presents a precise legal description of the land (Stip. #1). It is stipulated that Avenue Bank holds the legal title to the property but that Mr. Simpson has full and sole possession and control of the property.

The stipulation provides that the property consists of 70 acres of vacant prairie land on which a slough is located. Approximately 25 years ago, Respondent Simpson caused the slough to be dredged upon the request of the Village of Carol Stream for water control purposes. Peat material from the

dredging was deposited at locations designated for the purposes of the stipulation as "Bog No. 1" consisting of 1/2 acre and "Bog No. 2" consisting of 1/10 acre. The land area directly north of the slough is residential, consisting of apartment buildings. To the west of the slough the area is commercial. The land to the east and south is undeveloped.

Beginning approximately in May 1974, the Carol Stream Fire Department received complaints from residents living north of the property reporting fires on Bog #1 (Stip. #6). It is stipulated that if given, testimony would show that an employee of the Carol Stream Fire Department extinguished a fire on Bog #1 on December 13, 1974 (Stip. #6). The fires at Bog #1 resulted from the slow spontaneous combustion of the peat material (Stip. #7). The attempts by the Fire Department to extinguish the fires by application of water to the peat were only temporarily successful; when the water drenched peat was turned over, hot and smoldering areas were visible, indicative of continuous combustion of peat on and beneath the surface of Bog #1 (Stip. #7). Bog #1 did not resume activity during 1976 or to the date of signing this stipulation (Stip. #8).

In approximately April 1976, peat located at Bog #2 began to burn. Personnel from the Carol Stream Fire Department were called to Bog #2 and attempted to extinguish flames there on April 19, 1976, April 22, 1976, April 23, 1976, April 28, 1976, May 2, 1976, and July 11, 1976 (Stip. #8). As with Bog #1 application of water to Bog #2 did not permanently extinguish the burning. On each of the aforementioned dates the Fire Department responded to the complaints of residents of the Chateau Village Apartments located directly north of Respondents' property (Stip. #9). After the filing of the complaint in this matter, Respondent Simpson immediately entered into settlement discussions with complainant (Stip. #11). Pursuant to these discussions, Respondent Simpson engaged a contractor to dig up and spread the peat in Bog #2. This work was performed and completed on March 3 and 4, 1977. The parties believe this work may permanently abate the combustion at Bog #2. No work was done at Bog #1 because this area was quiescent throughout 1976 (Stip. #11).

As a result of negotiations and the actions taken by Respondent the parties agreed that it would be in the best interest of the public and the parties to settle this matter under the Board's Procedural Rule 331. The agreement between the parties is that

Respondent Simpson has taken the steps necessary to permanently abate the combustion of peat material on the property described above and should any area of the property again become active he will take the necessary additional steps to abate combustion. The Avenue Bank and Trust Company of Oak Park is to be dismissed from the proceeding. Respondent Simpson agrees to pay a penalty of \$300 as the full and only penalty for the violations described.

The Board does find this agreement adequate under Procedural Rule 331. The Board finds the Respondent was in violation of Rule 502 of the Regulations and Section 9(a) of the Act. In considering Section 33(c) of the Act the Board finds that clearly there was public injury manifested in the complaints to the fire department; the degree of this injury or threat of injury is not clear from the facts stipulated. There is no social or economic value in the burning of peat in a slough. The location of commercial and residential districts on two sides of the slough makes the injury worse. The fact that the burning has been abated shows technological and economical reasonableness. Under these circumstances the Board finds the \$300 penalty sufficient to aid in the enforcement of the Act. Avenue Bank and Trust shall be dismissed as a Respondent.

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 Harold N. Simpson has been in violation of Rule 502 of the Chapter 2: Air Pollution Regulations and Section 9(a) of the Environmental Protection Act.
2. Respondent Avenue Bank and Trust Company of Oak Park is dismissed.
3. Respondent Simpson shall cease and desist all future violations.
4. Respondent Simpson shall pay a penalty of \$300 within 35 days of this order. Payment shall be by certified check or money order payable to:

State of Illinois  
Fiscal Services Division  
Environmental Protection Agency  
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 28<sup>th</sup> day of June, 1977 by a vote of 4-0.

Christan L. Moffett  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board