

0001

1 ILLINOIS POLLUTION CONTROL BOARD
2
3 ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
4)
Complainant,)
5)
vs.) AC 04-75
6) (IEPA No. 221-04-AC)
CHARLES L. PARKER,) (Administrative Citation)
7)
Respondent.)

8

9

10

11

12

13

14

15 The following is the transcript of a hearing
16 held in the above-captioned matter, taken
17 stenographically by Gale G. Everhart, CSR-RPR, a notary
18 public within and for the County of Peoria and State of
19 Illinois, before Carol Webb, Hearing Officer, at the
20 Logan County Courthouse, Lincoln, Illinois, on the 30th
21 day of November, A.D. 2005, commencing at 9:30 a.m.

22

23

24

0002

1 PRESENT:
2 HEARING TAKEN BEFORE:
ILLINOIS POLLUTION CONTROL BOARD
3 1021 North Grand Avenue East
Springfield, Illinois 62794-9274
4 (217) 524-8509
BY: CAROL WEBB
5
6
7 APPEARANCES:
8 MICHELLE M. RYAN, ESQUIRE
Attorney at Law
9 1021 North Grand Avenue
Springfield, Illinois 62794-9276
10 (217) 782-5544
On Behalf of the Complainant.

11

12

13

I N D E X

14

15

WITNESS FOR THE COMPLAINANT: Page

16

WILLIAM E. ZIERATH

17

Direct Examination by Ms. Ryan 4

18
19 COMPLAINANT'S EXHIBIT: Identified Admitted
20 NUMBER 1. 6 11
Inspection Report

21
22
23
24
0003

1 HEARING OFFICER WEBB: Good morning. My name is
2 Carol Webb. I'm a hearing officer with the Pollution
3 Control Board. This is a hearing for AC 04-75, IEPA
4 versus Charles Parker. It is November 30th, 2005, and
5 we are beginning at 9:30 a.m.
6 I will note for the record that there are no
7 members of the public present. Members of the public
8 are allowed to provide public comment if they so choose.
9 At issue in this case is the EPA's allegation that
10 Respondent violated sections 21(p)(1), (p)(3) and (p)(7)
11 of the Environmental Protection Act at a site in Logan
12 County.
13 You should know that it is the Pollution
14 Control Board and not me that will make the final
15 decision in this case. My purpose is to conduct the
16 hearing in a neutral and orderly manner so that we have
17 a clear record of the proceedings. I will also assess
18 the credibility of any witnesses on the record at the
19 end of the hearing.
20 This hearing was noticed pursuant to the Act
21 and the Board's rules, and will be conducted pursuant to
22 sections 101.600 through 101.632 of the Board's
23 procedural rules.
24 At this time I would like to ask the parties

0004

1 to make their appearances on the record.
2 MS. RYAN: Michelle Ryan, special assistant
3 attorney general for the Illinois EPA.
4 HEARING OFFICER WEBB: And I will note for the
5 record that Mr. Parker is not present today. This isn't
6 a huge surprise as we have not been able to reach
7 Mr. Parker for a while, and he has not been an active
8 participant in these proceedings for a while.
9 Ms. Ryan, would you like to make an opening
10 statement?
11 MS. RYAN: No. I will give it a miss this time.
12 HEARING OFFICER WEBB: Okay. You may proceed to
13 present your case.
14 MS. RYAN: We call William Zierath.
15 (Witness sworn.)
16 WILLIAM ZIERATH,
17 called as a witness, after being first duly sworn, was
18 examined and testified upon his oath as follows:
19 EXAMINATION
20 BY MS. RYAN:
21 Q State your name, please.
22 A My name is William Edward Zierath.
23 Q And where are you employed?

24 A The Illinois Environmental Protection Agency
0005
1 and Bureau of Land, the Field Operations Section.
2 Q How many years have you been with the Bureau
3 of Land, Field Operations?
4 A Since 1982. So it's 23 years.
5 Q What are your duties as a field inspector?
6 A To go out and do inspections to determine
7 compliance with both solid waste regulations and
8 hazardous waste regulations. And then prepare reports
9 after inspections. And, if appropriate, recommend
10 enforcement action.
11 Q Over your 23 years with the Bureau of Land,
12 how many inspections would you estimate that you have
13 conducted?
14 A Nearly 1,200.
15 Q What is your educational background?
16 A I have a bachelor's degree in zoology from
17 the University of Illinois at Urbana-Champaign.
18 Q Have you had any other training besides that?
19 A Well, we have had training within the Agency
20 on how to conduct inspections. I have also had training
21 on conducting criminal investigations at the Federal Law
22 Enforcement Training Center in Georgia.
23 Q Are you familiar with the facility that's
24 been designated by the Agency as the Lincoln/Parker
0006
1 site?
2 A Yes.
3 Q Where is that property located?
4 A It's on the east side of Lincoln south of the
5 Lincoln Christian College property. It's a triangular
6 piece of property that is bounded on all three sides by
7 either railroad right-of-way or what was railroad
8 right-of-way.
9 Q Who owns that property?
10 A Charles L. Parker according to the deed.
11 Q How many inspections have you conducted at
12 this site?
13 A I have conducted nine inspections at the
14 site.
15 Q I'm going to hand you what I have marked as
16 Exhibit 1. Can you tell me if you recognize that
17 document?
18 A Yes. This is a copy of the inspection report
19 I completed after doing the inspection at the facility
20 on March 25th, 2004.
21 Q And have you looked through all the pages
22 there?
23 A I did, yes.
24 Q Is this a fair, accurate and complete copy of
0007
1 your report?
2 A Yes, it is.
3 Q Can you -- I think you have already described
4 the property. Are there any structures or any other
5 identifying features on the site?

6 A There is a temporary shed type building
7 there. Nothing permanent, nothing on a foundation or
8 anything.

9 Q Okay. Who took the photographs that are
10 attached to this report?

11 A I did.

12 Q And what do they show?

13 A Shall I go through them one by one?

14 Q Sure.

15 A Okay. Well, photograph 1 shows a bunch of
16 metal demolition waste that's in the -- excuse me, do we
17 need --

18 Q No. That's all right. Your pictures came
19 out better than mine did on the printer.

20 A -- in the northwest corner of the property
21 near the entrance to it and also a number of vehicles in
22 amongst the tall weeds there; there are a couple of
23 appliances and then the shed that I spoke of that is the
24 only building on the site. Photograph Number 2 shows a
0008

1 bunch more of the metal demolition waste and a couple of
2 air conditioners and some of the vehicles -- some of the
3 trailers that are on the site.

4 Photograph Number 3 is facing south -- or,
5 excuse me, it's facing east -- I'm sorry -- from the
6 northern part of the site showing trailer on site and
7 additional metal waste on site. 4 is taken back towards
8 the railroad track showing the vehicles that were in the
9 first photograph better. There aren't as many weeds in
10 the way. And also a drum and other metal waste.

11 Q Do those vehicles in photograph 4 appear to
12 be operational?

13 A No, they don't. And they have been there for
14 years.

15 Number 5 shows two inoperable vehicles and
16 some tires that are on site along with some metal waste.
17 Number 6 shows the still smoldering burn pile at the
18 site. Apparently most of the waste that was burned was
19 trees that had been brought to the site. I looked for
20 stumps to find out if they had been generated at the
21 site. There was no indication there had been a large
22 amount of tree removal at the site. And there were some
23 other things. There was a bedframe in there and other
24 metal waste in this.

0009

1 Q We can see the bedframe in photo 7.

2 A Yes. There is mattress, the metal remnants
3 of burned mattress in photograph 7 which also shows a
4 burn pile. And photograph 8 is another view of the burn
5 pile.

6 Photograph 9 shows some -- a couch and a
7 chair. It had been dumped just south of the burn pile,
8 and an old Chevy vehicle that is on site. It's been
9 there awhile. It's in fairly bad shape. I don't
10 know -- you know, I don't know if Mr. Parker is keeping
11 that one because of the value of just the old vehicle.
12 He apparently claimed to have done so. I don't know on

13 that one. And there is another view of the burn pile
14 showing the dozer he has out there.
15 11 shows a burn pile, again, showing some of
16 the other -- the nontree type waste that are in there,
17 pieces of metal and other pieces of wood. 12 is a place
18 that he used to have a bunch of trees piled. And,
19 apparently, where he pushed the trees out of there into
20 where he eventually burned them. It also has metal
21 waste and that type of material in there.

22 13 shows a trailer he has on site that is
23 full of -- that one is full of metal waste plus an old
24 gasoline truck that he has there. 14 shows several air

0010

1 conditioners, old air conditioners, a bunch of used
2 tires. The SUV in the background there appears to be
3 inoperable. It's just parked there. And a couple of
4 trailers; I don't know what he is using to
5 store -- those for storage of because I didn't open
6 them.

7 Q Do you know what that metal framing parked up
8 against the white trailer is?

9 A I don't know what that is, no.

10 15 shows a close-up of the tires that he has
11 by that trailer. And then 16 is a bunch of metal waste.
12 Mr. Parker used to work for Burwell Oil, and one of the
13 things he took out of the site initially was when
14 Burwell would do renovation of a gas station, they would
15 generate some of this aluminum waste, the defacing
16 material from the gas station. And he would take it out
17 there and dispose of it. This stuff has been there for
18 quite some time.

19 Q Okay. Do these photographs accurately depict
20 what you saw at the property on March 25th, 2004?

21 A Yes.

22 Q When was this report generated?

23 A Within two weeks after the inspection.

24 Q Does Illinois EPA keep these reports in the

0011

1 regular course of its business?

2 A Yes.

3 MS. RYAN: At this time I move Exhibit 1 into
4 evidence.

5 HEARING OFFICER WEBB: Exhibit 1 is admitted into
6 evidence.

7 MS. RYAN: And we rest.

8 HEARING OFFICER WEBB: Thank you.

9 (Discussion off the record.)

10 HEARING OFFICER WEBB: We have just had an
11 off-the-record discussion regarding posthearing briefs.
12 The transcript of these proceedings will be available
13 from the court reporter by December 12th, 2005, and will
14 be posted on the Board's web site. The public comment
15 deadline is December 27th, 2005, and public comment must
16 be filed in accordance with section 101.628 of the
17 Board's procedural rules. The Complainant's brief is
18 due by January 12th, 2006, and Respondent's brief is due
19 February 14th, 2006. Complainant's reply, if any, is

20 due February 21st, 2006.

21 Ms. Ryan, would you like to make a closing
22 argument?

23 MS. RYAN: No. I will reserve that for my brief.
24 Thank you.

0012

1 HEARING OFFICER WEBB: Okay. I will again note
2 that there are no members of the public present to make
3 any statements on the record. And I will also again
4 note that Mr. Parker did not appear at any time during
5 these proceedings.

6 So I will proceed to make a statement as to
7 the credibility of the witness testifying during this
8 hearing. Based on my legal judgment and experience, I
9 find the witness testifying to be credible.

10 At this time I will conclude the proceedings.
11 We stand adjourned, and I thank you all for your
12 participation.

13

14

15 (Whereupon, the proceedings concluded
16 at 9:45 a.m.)

17

18

19

20

21

22

23

24

0013

1 STATE OF ILLINOIS)
2)

2 COUNTY OF PEORIA)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

CERTIFICATE OF REPORTER

1 I, GALE G. EVERHART, CSR-RPR, Notary Public in and
2 for the County of Peoria, State of Illinois, do hereby
3 certify that the foregoing transcript, consisting of
4 pages 1 through 12, both inclusive, constitutes a true
5 and accurate transcript of the original stenographic
6 notes recorded by me of the foregoing proceedings had
7 before Hearing Officer Carol Webb, in Lincoln, Illinois,
8 on the 30th of November, 2005.

15 Dated this 7th day of December, 2005.

16

17

18

19

20

21

GALE G. EVERHART, CSR-RPR
Illinois License No. 084-004217

22

23

24