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## BEFORE THE

## ILLINOIS POLLUTION CONTROL BOARDY ECEIVED CLERKS OFFICE

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY	) STATE <b>OF ILL</b> INOIS ) Pollution <b>Control</b> Boar
-vs-	) ) DOCKET AC 10-21
DAVID CHARLES BETTIS	)

Hearing held, pursuant to notice, on Wednesday, November 2, 2011, at the hour of 10:30 a.m. at 621 S. Main Street, Carrollton, Illinois, before CAROL WEBB, duly appointed Hearing Officer.

L.A. REPORTING SERVICE (312)419-9292

REPORTER: LAUREL A. PATKES, CSR #084-001340

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     APPEARANCES:
         MICHELLE RYAN
         Assistant Counsel
         Division of Legal Counsel
          1021 N. Grand Ave. East
         Springfield, Illinois 62794
 5
                          appearing on behalf of IEPA;
 6
         DAVID CHARLES BETTIS.
 7
                          appearing pro se as Respondent.
     PRESENT:
         CARMEN BRIDGES
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- 1 HEARING OFFICER WEBB: Good morning.
- 2 My name is Carol Webb. This is the hearing for AC
- 3 10-21, IEPA versus David Charles Bettis. It is
- 4 November 2, 2011, and we are beginning at 10:30 a.m.
- I will note for the record that there
- are no members of the public present although
- 7 Mr. Bettis did bring his mother, Ms. Carmen Bridges.
- At issue in this case is the Agency's
- 9 allegation that respondent violated Sections
- 10 21(p)(1) and (p)(3) of the Environmental Protection
- 11 Act at his site one mile east of Carrollton in
- 12 Greene County.
- This hearing was noticed pursuant to
- the act and the Board's rules and will be conducted
- pursuant to Sections 101.600 and 101.632 of the
- Board's procedural rules.
- 17 At this time I'd like to ask the
- parties to please make their appearances on record.
- MS. RYAN: Michelle Ryan Special
- 20 Assistant Attorney General for the Illinois EPA. I
- have my formal appearance here.
- HEARING OFFICER WEBB: Thank you.
- And Mr. Bettis, you are here
- representing yourself, is that correct?

- 1 MR. BETTIS: Yes.
- HEARING OFFICER WEBB: Very good.
- Okay. Ms. Ryan, would you like to
- 4 make any opening statement?
- 5 MS. RYAN: Yes.
- 6 We believe the evidence today will
- show that on February 19, 2010 open dumping
- 8 resulting in litter and open burning occurred at a
- 9 property known as the Carrollton Livestock Auction
- near Carrollton, Greene County, Illinois, and that
- there are no legal defenses to this activity.
- HEARING OFFICER WEBB: Okay.
- Mr. Bettis, would you like to make any opening
- statement? You don't have to. You can just wait
- and present your case later.
- MR. BETTIS: That's fine.
- 17 HEARING OFFICER WEBB: Okay.
- 18 Ms. Ryan, you may call your first witness.
- MS. RYAN: We call Charlie King.
- 20 HEARING OFFICER WEBB: Okay. Will
- the court reporter please swear in Mr. King?
- 22 (Whereupon the witness was sworn
- by the reporter.)

- 1 CHARLES WALTER KING, JR.
- called as a witness herein, on behalf of IEPA,
- having been first duly sworn on his oath, was
- examined and testified as follows:

- 6 DIRECT EXAMINATION
- 7 BY MS. RYAN:
- 8 Q. Can you state your full name and
- 9 spell it for the court reporter?
- 10 A. Charles Walter King, Jr. It's
- 11 K-i-n-g.
- Q. What is your job, Mr. King?
- 13 A. I'm field inspector/investigator with
- the Illinois EPA.
- 15 Q. How many years have you been a field
- inspector for the Illinois EPA?
- 17 A. 20-1/2 years.
- 18 Q. Did you work at Illinois EPA prior to
- becoming a field inspector?
- A. Yes, I did.
- Q. How long was that for?
- A. Five and a half years.
- Q. And what job did you have at that
- 24 time?

- 1 A. I was the project manager in Grants
- 2 Administration Section of the Water Pollution
- 3 Control.
- 4 Q. What are your duties as a field
- 5 inspector?
- A. I conduct inspections of RCRA
- 7 (Resource Conservation Recovery Act), hazardous
- waste inspections. I conduct inspections of
- 9 landfills, of complaint investigations, of PIMW
- which is potential infectious medical waste and
- compost facilities and open dump inspections.
- 12 Q. Approximately how many inspections
- have you conducted in your years at the Illinois
- 14 EPA?
- 15 A. Over 2,000.
- Q. What's your educational background?
- 17 A. I have an Associate's in Art degree
- from Parkland College in Champaign, Illinois.
- have a Bachelor's of Science from Illinois State
- University in Normal, Illinois. I have a Master's
- of Science from Illinois State University.
- Q. Have you had any additional training
- 23 apart from your education?
- A. On-the-job training, attending

- various schools through the State of Illinois such
- as the RCRA Institute in Colorado, MEEA which is the
- 3 Midwest Environmental Enforcement Association,
- 4 courses in Michigan and St. Louis, and also, I was
- 5 in the Marine Corps for three years, and I was the
- 6 head of an administrative office.
- 7 Q. Are you familiar with the facility
- 8 known as the Carrollton Livestock Auction?
- 9 A. Yes, I am.
- Q. Where is that property located?
- 11 A. Approximately one mile east of the
- 12 City of Carrollton on Route 108 on the south side of
- the road.
- 14 Q. In February 2010, who owned that
- property?
- 16 A. David Charles Bettis.
- Q. Approximately how many inspections
- have you conducted there?
- 19 A. Approximately three or four including
- the new owners.
- Q. I'm going to hand you what I've
- marked for identification as Exhibit 1. Can you
- tell me if you recognize this document?
- A. Yes, I do.

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Q. What is that?
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- 2 A. This is my inspection report for the
- inspection conducted on February 19, 2010.
- Q. Can you look through all the pages
- 5 for me?
- 6 A. Sure.
- 7 (Pause)
- 8 A. Okay.
- 9 Q. Is this a fair, accurate and complete
- copy of your report?
- 11 A. Yes, it is.
- 12 Q. Can you describe the property that
- we're discussing generally?
- 14 A. It's a livestock auction
- house/building where livestock auctions are
- conducted. Behind the building was where an open
- dump, open burning area was discovered based on a
- complaint received to the Illinois EPA.
- 19 Q. Who took the photographs attached to
- this report?
- 21 A. I did.
- Q. And what did they show beginning with
- 23 photograph number 1?
- A. Photograph number 1 shows an open

- dump, an open burn pile measuring approximately
- 2 27 feet by 18 feet by 2 feet.
- Photograph number 2 shows wood, bed
- 4 springs, box springs, car seat springs, glass,
- 5 plastics, two television sets, paper, Styrofoam
- 6 cups, apparent cabinets, an empty Old Crow bourbon
- bottle, a set of cans, nails, and ashes were
- 8 observed in the waste.
- Photograph number 3 shows waste from
- another angle.
- Photograph number 4 shows burned
- wastes which are easily seen here.
- Photograph number 5 shows some of the
- waste from another angle.
- Q. Do these photographs accurately
- depict what you saw on the site on February 19,
- 17 2010?
- 18 A. Yes they do.
- 19 Q. When was this report generated?
- A. This report was generated on
- 21 March 15, 2010.
- Q. Does Illinois EPA keep these reports
- in the regular course of its business?
- A. Yes, they do.

- 1 Q. Is it the regular course of business
- to make such records at or reasonably after the
- 3 event depicted thereon?
- 4 A. Yes it is.
- MS. RYAN: At this time, I would move
- 6 Exhibit 1 into evidence.
- 7 HEARING OFFICER WEBB: Exhibit 1 is
- 8 admitted into evidence.
- 9 (Whereupon IEPA Exhibit 1 was
- 10 admitted into evidence at this
- time.)
- MS. RYAN: And I have nothing further
- on direct.
- 14 HEARING OFFICER WEBB: Okay.
- Mr. Bettis, would you like to cross-examine the
- witness? That is to say would you like to ask him
- any questions about anything he just testified to?
- MR. BETTIS: No.
- 19 HEARING OFFICER WEBB: Okay. Very
- good.
- Ms. Ryan, do you have anything
- further to present?
- MS. RYAN: I do not.
- HEARING OFFICER WEBB: Okay.

- 1 Mr. Bettis, we'll swear you in, and then you can
- just go ahead and present your case in a narrative
- 3 form.
- 4 Would the court reporter please swear
- 5 in Mr. Bettis?
- 6 (Whereupon the witness was sworn
- by the reporter.)
- 8 HEARING OFFICER WEBB: Go ahead.

- 10 NARRATIVE TESTIMONY
- BY DAVID CHARLES BETTIS:
- Okay. I don't dispute any of this as
- far as there being stuff dumped back there and it
- being burned. My disputation is that I didn't do
- 15 this.
- It has been an ongoing problem. I
- posted "no trespassing" signs. I posted "no
- dumping" signs, and, you know, we watch it as close
- as we can, but this has been an ongoing problem for
- years, not just with me but with the previous owners
- and the owner since, the new owners have had
- problems with people dumping stuff behind the barn,
- 23 and then some yahoo decides it's a good idea to set
- it on fire.

- I don't know what we're supposed to
- do. I mean, I couldn't be there 24 hours a day. I
- understand that there's a problem.
- I cleaned this up, you know, and he
- 5 notified me, Mr. King I believe notified me before
- 6 they burned this, and we had already made
- 7 arrangements to, you know, get it hauled away. We
- were hauling it away, you know, whenever it would
- 9 happen little by little all along, and I kept
- saying, people, please, don't dump stuff behind the
- barn. This is not a dump.
- 12 It didn't make any difference. In
- the middle of the night, they'd roll in there, and
- you can see where they just kind of backed up and
- pushed stuff off the back of a pickup truck and
- drove off.
- And they'd be out there drinking.
- There was not only the open bourbon bottle. There
- was beer cans back there too like it was some sort
- of party spot, and I just, I didn't know what else
- to do about it. I mean, I did what I could, and I
- cleaned it up when there was a mess.
- The day he was out there, it was only
- the day before or maybe two days before that that

- they had set this on fire, and it was only, I don't
- know, it wasn't very long after he contacted me the
- first time and said, hey, you've got stuff dumped
- 4 back there. You can't have that like that, and I
- was like, okay. And I made arrangements to get a
- truck out there to get it picked up and hauled away,
- and within a day or two after that they set it on
- 8 fire before the truck could even get there to clean
- 9 it up.
- I mean, I just don't know what I was
- supposed to do. I mean, I tried to comply with
- state rules the best I could, and I was complying.
- 13 It wasn't me.
- I told them, I said, look, the EPA is
- down on me here folks. Give me a hand; you know,
- stop dumping stuff back there. And whatever you do,
- don't set it on fire.
- And it kind of got down after that,
- 19 you know, they kind of stopped on me, but I know for
- a fact that since the elevator bought it, bought the
- 21 property from me, they've had people dumping stuff
- on them, and somebody set it on fire.
- So every time there's a new owner, I
- quess they figure, well, we can go ahead and start

- dumping back there and having parties and whatever
- else. I don't know what they're doing back there,
- but, you know, this is an ongoing problem that
- 4 several owners have had to deal with, and we are,
- you know, but none of us can be there 24 hours a
- 6 day.
- 7 I guess that's really my only defense
- is that, you know, it wasn't like I was taking stuff
- back there and dumping it and burning it, you know,
- and I realize it was on my property but it wasn't --
- 11 you know, human beings can only do so much, you
- know, and I didn't have the money to post cameras
- and things like that to try and catch people, you
- 14 know.
- We even put up lights back there to
- try to deter them from dumping back there because in
- the middle of the night it would be dark, but it
- didn't, you know, I quess it did help a little bit
- because it was not too long after that that, you
- 20 know, it kind of quit. You know, they'd pull around
- there and the light would come on and they decided I
- quess it wasn't a good place to dump after that.
- I quess that's really my only defense
- is that it wasn't me, and I didn't set it on fire.

- I mean, I came in the day after this was burned and
- I said to my hired man, I said, Donnie, you didn't
- set that on fire, did you? He said, no. He said, I
- 4 came in yesterday and it was already a smoldering,
- you know, he said it was already out. It had
- 6 already burned and was out. So somebody set it on
- 7 fire in the middle of the night.
- It blows my mind because I never was
- 9 taught that that was okay to do on other people's
- property, you know.
- I guess that's all I have.
- HEARING OFFICER WEBB: Okay.
- Ms. Ryan, do you have any questions for Mr. Bettis?
- MS. RYAN: Yes.

- 16 CROSS-EXAMINATION
- 17 BY MS. RYAN:
- 18 Q. Mr. Bettis, how long did you own this
- 19 property?
- 20 A. From October of 2008 to -- we sold it
- in June of this year.
- 22 O. And in addition to the livestock
- auction, you had a flea market on the property as
- well at the same time?

- A. No. We had what we call our junk and
- 2 hay sale.
- 3 Q. Junk and hay sale?
- 4 A. Yeah. It was just a miscellaneous
- sale. We sold chickens and ducks and rabbits, and
- from that we went to, Lord knows what, lawn mowers
- 7 and farm equipment and any old thing, pocket knives.
- 8 Whatever they brought to sell, we would sell it, and
- 9 we sold firewood and then we sold hay.
- 10 Q. And you said several owners have had
- 11 problems with this.
- 12 Did the owner that you bought the
- property from in 2008 indicate that this was a
- 14 problem too?
- 15 A. Yeah, yeah. Gordon Dabbs was his
- 16 name; D-a-b-s.
- 17 MS. RYAN: That's all I have.
- 18 HEARING OFFICER WEBB: Okay.
- 19 Mr. Bettis, would you like to call your mother as a
- witness or do you want to just leave it stand?
- MR. BETTIS: Yes.
- HEARING OFFICER WEBB: All right.
- Would the court reporter please swear in the
- 24 witness.

- have regular jobs as well, so almost on a daily
- 2 basis different people would be bringing in hay,
- miscellaneous items. They brought them in all week
- 4 long and set them up for the sale on Thursday.
- 5 So we couldn't absolutely refuse
- 6 access without shooting ourselves in the foot as far
- as our customers, but by not refusing access, there
- was no way we could eliminate people coming in and
- 9 dumping, and it was a problem. It was always a
- problem.
- I guess that's all I have to say.
- 12 HEARING OFFICER WEBB: Ms. Ryan, do
- you have any questions for Ms. Bridges?
- MS. RYAN: Yes.

- 16 CROSS-EXAMINATION
- 17 BY MS. RYAN:
- 18 Q. Did you ever find out who was doing
- 19 it?
- 20 A. No, no.
- I will say that there were times when
- I was actually in the building, and, you know, I
- would be in the kitchen getting things ready for the
- cafe the next day. Naturally, when you drive in --

- 1 Charlie and I live 65 miles away, so you have to
- drive in, drive around the building, make sure
- everything is the way it should be. Everything was.
- I come out 45 minutes later, and there's a heap that
- 5 they had dumped with me on the property.
- 6 MR. BETTIS: Some of it was pretty
- 5 brazen. I just -- can I talk?
- 8 MS. RYAN: I don't have any
- 9 objection.
- 10 HEARING OFFICER WEBB: Okay. Go
- 11 ahead.
- MR. BETTIS: Some of it was pretty
- brazen. I mean, when I first bought the building,
- the first sale we had we had like four mattresses.
- I said, folks, we can't sell these. Don't put these
- out here. Not only that but you put them out here
- on a Monday and it rains two days and then they're
- really not worth anything. You know, I can't even
- 19 get anybody to take them then.
- 20 And the first two weeks that I owned
- the barn, I was working on the building almost every
- day, not every day but almost every day, and I came
- in the first week and we had two mattresses, and I
- told them on the sale day, folks, don't bring us

- 1 mattresses. We can't sell those. It's illegal for
- us to sell those. We can't sell them. So, please,
- don't bring mattresses.
- 4 The next day I was there working on
- 5 the building and instead of two mattresses out on
- 6 the line, there were four, and by the next sale day,
- 7 there were eight, and I had to pay to haul those
- 8 away. I mean, after I had announced at the sale,
- 9 please don't bring these, by the very next week,
- they had doubled the first day and doubled again in
- 11 number by the next sale day. And I just --
- sometimes you just wanted to throw up your hands and
- say, oh, my God, I can't believe it, you know.
- And I, of course, announced it again,
- and I did it every sale almost. You know, please
- don't bring us any of these mattresses, and then
- when they started really dumping stuff behind the
- barn and then started burning it, I'm like, hey,
- stop doing that. And at one point I told them, I
- said, folks, you know, if you're going to start a
- fire, please don't because it could spread; I mean,
- it could catch this barn. I mean, if it caught that
- sale barn, it would have went up like a box of
- matches.

- You know, it's a livestock barn
- that's 60 years old, and all the pens were made of
- wood, and some of the pens had been there for 60
- years so they were really flammable, and I told
- them, I said, please, please, stop.
- 6 Like I said, I had, not completely
- but had gotten it down pretty good by the time I
- left, but as soon as I was gone, the new owner had a
- problem, the same problem. Not only did they dump
- on them but they set it on fire.
- 11 So I don't know. I don't know what
- the mentality is that says that's okay. And this is
- the only place I know of that that really goes on.
- 14 So it's almost like it's unique to this barn, this
- sale barn, and I've worked at a lot of sale barns
- over the years and never had a problem with people
- dumping and setting it on fire, you know. I don't
- 18 know.
- 19 HEARING OFFICER WEBB: Ms. Ryan, do
- you have any more questions for either witness?
- MS. RYAN: Yeah. I don't have any
- more questions for Ms. Bridges but just one quick
- 23 question.
- Do you think they were bringing the

- 1 mattresses in to try to sell them before you warned
- 2 them against it or --
- MR. BETTIS: I think originally, yes,
- 4 that would have been what was going on.
- I think after the fact it was almost
- 6 like they were saying, well, we'll dump these, and
- 7 we'll show you we can dump them.
- MS. RYAN: After you warned them?
- 9 MR. BETTIS: Yeah.
- MS. RYAN: And were they putting
- these in the area where farmers would bring their
- 12 stuff to store?
- MR. BETTIS: Uh-huh, yeah. But the
- thing was, like the next week when I showed up and
- there was eight of them, it was obvious they had
- just dumped them because they weren't -- like the
- first week, there was two of them sitting out there,
- and they were stacked up in the row, you know, like
- it was organized, you know.
- By the time the next week rolled
- around, there was eight of them. They're dumped on
- top of the other two and just thrown any ol' way
- they can put them out there, and so it was obvious
- that, you know, they were dumping them, and they

- were going to show me they could do it while I
- wasn't around, and there was nothing I could do
- 3 about it.
- And so I hauled them off, you know,
- and luckily, after that, you know, it kind of
- 6 simmered down. I think it was one or two people
- 7 that decided, well, we'll just show you what we can
- 8 do, and after that, you know, it kind of went away.
- I mean, we would sometimes still get
- 10 mattresses. Once again, they'd stack them against
- the wall in a row like they wanted to sell them, you
- know, and we'd tell them, folks, please don't bring
- those. We can't sell them.
- 14 MS. BRIDGES: May I say something?
- 15 HEARING OFFICER WEBB: Let Mr. Bettis
- 16 completely finish first so we don't have to go back
- and forth.
- MR. BETTIS: Yeah, I'm done.
- 19 HEARING OFFICER WEBB: Okay.
- Ms. Bridges, any final comment?
- MS. BRIDGES: Yes. The thing is he
- said that it stopped. It didn't stop. It was
- ongoing the entire three years, and some of it, yes,
- some of them brought them to sell, but by the same

- token, when you bring a couch out there -- it wasn't
- just mattresses, it was furniture as well. When you
- bring a couch out there and it's missing the legs
- and no cushions, no, they're not trying to sell it.
- MR. BETTIS: Yeah, they're dumping.
- MS. BRIDGES: And that was ongoing
- 7 from day one.
- MR. BETTIS: I mean, we got to where
- 9 we brought a pickup so that whatever there was that
- week, we could haul it away, whatever furniture
- there was, we could haul it away because they
- wouldn't stop.
- 13 HEARING OFFICER WEBB: Okay. Any
- 14 final questions from you?
- MS. RYAN: I don't have any other
- 16 questions. Thank you.
- 17 HEARING OFFICER WEBB: Okay. Let's
- move on to discuss the briefing schedule, and we'll
- set the dates right now, and, Mr. Bettis, after the
- hearing, I'll explain to you a little more what this
- 21 brief is.
- The transcript is due on November
- 15th and will be posted on the Board's website. The
- 24 public comment deadline is

- 1 November 16th. Any public comment must be filed in
- 2 accordance with Section 101.628 of the Board's
- 3 procedural rules.
- 4 Complainant's brief is due by
- November 29, 2011, and respondent's brief will be
- due by December 13th.
- If no brief is filed by that date,
- 8 the Board may assume that respondent will not be
- <sup>9</sup> filing a brief.
- Ms. Ryan, would you care to make any
- 11 closing statements?
- MS. RYAN: No. I'd like to reserve
- that for my brief. Thank you.
- 14 HEARING OFFICER WEBB: Mr. Bettis,
- would you care to make any closing remarks?
- MR. BETTIS: No.
- 17 HEARING OFFICER WEBB: Okay. Again,
- I will note that there are no members of the public
- present, and at this time, I will conclude the
- proceedings, and we stand adjourned.
- 21 (Whereupon the proceedings
- adjourned at 10:50 a.m.)

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