

BEFORE THE POLLUTION CONTROL BOARD
STATE OF ILLINOIS

GARY POLCHOW,)
)
 Complainant,)
)
 vs.) Cause No.: PCB 15-157
)
 VILLAGE OF RANKIN,)
)
 Respondent.)

BE IT HEREBY CERTIFIED AND REMEMBERED
that the PCB HEARING was held on May 1, 2018, at 10:00
a.m. at Vermilion County Courthouse, Courtroom 3A, 7 N.
Vermilion Street, Danville, Illinois.

Becky L. Jessup: CSR # 084-004343

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1 10:02 a.m.

2 HEARING OFFICER WEBB: Good morning. My name
3 is Carol Webb and this is the hearing for PCB 15-157,
4 Gary Polchow vs. Village of Rankin. It is May 1 and we
5 are beginning at 10 a.m.

6 There are no members of the public present to
7 comment but written public comment may be filed with
8 the clerk by May 15.

9 In this case Complainant alleges that the
10 Village violated Sections 9(a) and (c) of the
11 Environmental Protection Act by openly burning waste at
12 a Public Works property in Vermilion County.

13 The Pollution Control Board members will make
14 the final decision in this case. My purpose is to
15 conduct a hearing in a neutral and orderly manner so we
16 have a clear record of the proceedings.

17 This hearing was noticed pursuant to the Act
18 and the Board's rules and will be conducted pursuant to
19 Sections 101.600 through 101.632 of the Board's
20 procedural rules.

21 At this time I would like to ask the parties
22 to please make their appearances on the record.

23 MR. DREW: Good morning, Your Honor. For the
24 record, William Drew on behalf of the Complainant, Gary

1 Polchow.

2 MR. MUDD: Andrew Mudd and Kaylan Huber on
3 behalf of the Village of Rankin.

4 HEARING OFFICER WEBB: Thank you. Are there
5 any preliminary matters to discuss on the record?

6 MR. DREW: I have none.

7 HEARING OFFICER WEBB: Mr. Drew, would you
8 like to make an opening statement?

9 MR. DREW: Yes, please. Good morning.
10 William Drew. I represent the Complainant Gary
11 Polchow.

12 The case before the Court is a complaint by
13 Gary Polchow against the Village of Rankin for
14 improperly burning commingled yard waste along with
15 plastics and other types of tangible material objects
16 that are causing pollution to be emitted into the
17 atmosphere and into the air of the Village of Rankin.

18 Mr. Polchow's complaint states that this, he
19 observed this occurring for a lengthy period of time.
20 Approximately a 24 month period of time. And that it
21 wasn't being maintained and administered by the Village
22 of Rankin.

23 According to the laws of the State of
24 Illinois to prevent pollution into the airways of the

1 Rankin, City of Rankin, Mr. Polchow made the complaint
2 to the Village of Rankin. And as far as this case
3 goes, after he made the complaint, he will testify and
4 the facts will show that the Village of Rankin didn't
5 do anything to change their habits and their ways of
6 polluting the airways with this public dump in the City
7 of Rankin.

8 And as far as the matters go -- okay. Thank
9 you, Mr. Polchow. The results of the burning of the
10 waste, the improper waste and contaminants at the
11 public dump also resulted in the debris after the
12 burning of these contaminants in the public dump of
13 running into the tributaries, the waterways.

14 MR. MUDD: I object at this point. I believe
15 we are here only under Subsection 9(a) and 9(c) which
16 are burning and burning refuse. It has nothing to do
17 with groundwater pollution or contaminants in the
18 ground or waterways.

19 HEARING OFFICER WEBB: There weren't any
20 allegations of water pollution in the complaint, but is
21 it relevant to the 9(a) and (c), I will let you go
22 ahead if you can show it is.

23 MR. DREW: The totality of the circumstances
24 surrounding this dump and I believe he did allege in

1 the complaint, if I remember correctly, that it did run
2 into the waterways. And that, you know, the ashes and
3 these pollutants that existed after the burning with
4 heavy rainfall, that it did run off into the adjacent
5 water tributaries that were nearby this Public Works
6 dump. I believe he did allege that in this complaint.

7 Anyways, it goes to the totality of the
8 circumstances of, you know, of this case before the
9 Court, you know, as far as the overall, you know,
10 wrongful actions of the Village of Rankin.

11 You know, the need for the Village of Rankin
12 to basically have a public dump, you know, that is for
13 the people of the public of Rankin and they are
14 supposed to have a public dump that is not causing
15 pollution, harm to the environment, harm to the people,
16 harm to the wildlife.

17 All of those things, you know, are part of
18 this case before the Court. And it certainly, the
19 totality of the circumstances I believe is worthy of
20 being presented to the Court in this case.

21 So, you know, with all that being said, the
22 evidence and the facts primarily through photographs
23 and testimony of the witnesses are going to support Mr.
24 Polchow's complaint, you know, pursuant to the laws of

1 the State of Illinois.

2 And the Court should fashion the appropriate
3 remedies and penalties against the Village of Rankin
4 for the wrongdoing. Thank you.

5 HEARING OFFICER WEBB: Thank you. Would the
6 Village like to make an opening statement?

7 MR. MUDD: Just briefly. Your Honor, under
8 Section 9(a) and 9(c) air pollution as well as burning
9 of refuse, Counsel has incorrectly stated in a number
10 of occasions this is a public dump. This is not.

11 This is a public site in which residents are
12 allowed to burn landscape waste which is allowed for
13 under 415 of the Illinois Environmental Protection Act.

14 It is a locked fenced area. There is a
15 dumpster right next to it. We have two Public Works
16 employees, one of which will be here today, that sort
17 that. Residents are told to drop off the yard waste in
18 front of the gate. The gate is locked.

19 They go through it, pick out the trash and
20 then take the landscape waste to burn that when the
21 wind is not blowing towards town. This facility is set
22 on the western edge of town. So obviously they wait
23 for days in which the wind is blowing towards the west.
24 Therefore not blowing it towards any houses, any

1 residents. Simply blowing towards the cornfields.

2 What evidence they believe they will show you
3 is self-serving testimony, pictures from dates and
4 times that we are not sure of. The evidence that you
5 will hear from today is the head of Public Works that
6 manages this facility.

7 You will see from a number of exhibits that
8 we will ask to be entered in this case where the
9 Complainant I believe filed upwards of 15 complaints in
10 2015 regarding air pollution and improper burning.

11 Every single one of those was unfounded upon
12 investigation of the Illinois Environmental Protection
13 Act field office out of Champaign. Those letters were
14 dated March of 2014, April 2014 and all the way into
15 September 2018.

16 And there is also a letter from the Illinois
17 Attorney General's office in there as well from 2015.
18 Which either slightly predated this complaint or was
19 running concurrently with this.

20 Also under People vs. Joliet Railway
21 Equipment, there needs to be a shown intent that this
22 is specifically intent on burning refuse. Here is not
23 the case.

24 The EPA letters say numerous sections that

1 the Village is maintaining the site properly. They
2 have the ability to sort through the matter to figure
3 out what is landscape and what is not.

4 And they have taken all those steps. They
5 have even put signs leading up to the site in the
6 roadway which is used by the public stating yard waste
7 only, please do not dump anything else besides that.

8 Again there is a dumpster on the site to sift
9 through that to make sure that that, obviously
10 procedure and method is followed and we are in
11 compliance with the Illinois Administrative Code as
12 well as the Illinois Environmental Protection Act.

13 There will be no actual evidence presented to
14 you beyond Mr. Polchow that the air pollution causes
15 any type of damage to anyone, that it is such
16 characterization that it is injurious to plant, human
17 or animal life.

18 Mr. Polchow has been involved in this case
19 for a very long time. However, he is not an expert to
20 be able to lend those types of opinions in this case.

21 And at the very -- at the end of this
22 hearing, I will ask that this case be dismissed and
23 that Mr. Polchow be assessed or the Village be awarded
24 attorney's fees under the Illinois Administrative Code

1 provision that governs our hearing here today for the
2 frivolous litigation that Rankin has been fighting for
3 three years at this point. Thank you.

4 HEARING OFFICER WEBB: Mr. Drew, you may call
5 your first witness.

6 MR. DREW: Thank you, Your Honor. I call Gary
7 Polchow to the witness stand please.

8 HEARING OFFICER WEBB: Mr. Polchow, you can
9 have a seat over here.

10
11 GARY POLCHOW,
12 the witness herein, having been first duly sworn to
13 tell the truth, the whole truth and nothing but the
14 truth, was examined and testified as follows:

15
16 DIRECT EXAMINATION,

17 QUESTIONS BY MR. DREW:

18 **Q. Please state your full name for the Court and**
19 **spell your last name for the court reporter.**

20 A. Gary L. Polchow. P-o-l-c-h-o-w.

21 **Q. And where do you currently reside, sir?**

22 A. 319 N. Gunthrie, Rankin, Illinois.

23 **Q. And what county is that in?**

24 A. Vermilion County.

1 **Q. How long have you lived there?**

2 A. 19 years.

3 **Q. And what is your current age, sir?**

4 A. 66.

5 **Q. And have you served in the Armed Forces at all**
6 **during your lifetime?**

7 A. Merchant Marine.

8 **Q. What type of work did you do when you were in**
9 **the Merchant Marines?**

10 A. Highly dangerous tanker man job.

11 **Q. And what did that entail?**

12 A. Loading barges and running operating fuels for
13 Vietnam and oil factories, refineries.

14 **Q. How far have you gone in your education, sir?**

15 A. Two years of college.

16 **Q. And what is your current occupation?**

17 A. I am just a grandfather right now.

18 **Q. Okay. As far as this case goes, what is the**
19 **location of the Rankin general public dump as you have**
20 **described it in your complaint?**

21 MR. MUDD: I object to the phrasing. It is
22 not a dump. Landscape burn facility.

23 HEARING OFFICER WEBB: Overruled. At this
24 point I don't know what to call it. So go ahead.

1 BY MR. DREW:

2 **Q. Where is it located?**

3 A. It is on my railroad property. I own the
4 railroad from Rankin to Paxton. And I have notified
5 the Village attorney that this property is not theirs.

6 And I have been to the Village board meetings
7 several times. And in this discussion on and the
8 effects to this case. And to answer your question, I
9 would like to have it removed. I don't know. It is
10 kind of hard to answer this type of question.

11 **Q. Well, I am asking you specifically where is it**
12 **located in Rankin? The streets?**

13 A. It is on the east end. Southeast of Gunthrie
14 75 feet behind the creek. Center of town. On the east
15 side.

16 **Q. And the complaint that you filed in this case,**
17 **you filed a complaint on or about February 15, 2015?**

18 A. Yes.

19 **Q. And then before you filed the complaint in**
20 **this case, did you have occasion to go out to this**
21 **site?**

22 A. Yes.

23 **Q. And for what length of time had you been going**
24 **out to this public site where waste is deposited and**

1 **burned by the Village of Rankin? For what length of**
2 **time had you been going out there before the filing of**
3 **the complaint?**

4 A. Years.

5 **Q. Okay.**

6 A. 2, 3, 4 years. And I would go out there every
7 time that they would -- every time that they would set
8 the fire, I witnessed them pouring chemicals to start
9 the fire.

10 I have witnessed them pushing with the debris
11 and all that mixed in with all the yard waste. Not
12 sorting nothing. Pushing it upwards where they
13 themselves, the employees, have to breathe the smoke.
14 Big cloud of smoke.

15 MR. MUDD: Going to object, foundation
16 purposes. When, where.

17 HEARING OFFICER WEBB: You want background
18 information?

19 MR. MUDD: Some foundation on what specific
20 days or times when this was actually happening.

21 A. February 19.

22 BY MR. DREW:

23 **Q. Of what year?**

24 A. '15.

1 Q. Okay.

2 A. One particular, February 19, 2015. And I did
3 take pictures of it.

4 Q. Sure. And then now you filed, I want to make
5 sure your recollection is accurate here. You filed
6 your complaint on February 15, 2015. So are you -- and
7 you made these allegations against Rankin. Are you
8 certain of that date?

9 A. Yes. Several dates.

10 Q. So how about before February 15, 2015? On
11 what date did you, were you out there when you observed
12 the Village of Rankin, you know, basically, you know,
13 doing the burning of the, at that site?

14 A. Every time they had a fire.

15 Q. I need some dates though.

16 A. It would be June. It would be July of '14.
17 It would be May, June, July, August, September of '14.
18 And it would be 2013. It would be during the summer
19 months or fall months. Not very many dates during the
20 winter.

21 Q. And then can you tell the Court what you
22 observed on those dates when you were out there?

23 A. It was all different. When I walked out
24 there, I would find rubber shoes, aerosol cans,

1 chemicals, cans, plastics. Things that with the
2 employees that would push up with the front end loader
3 of all of the people's deposits.

4 People from the town would have dropped off
5 stuff that they just, unwanted items and things like
6 that were mixed into the pile. No sorting.

7 Because the piles were so big with tree
8 service companies coming in from outside tree service
9 companies coming in and depositing their tree jobs
10 which are trunks.

11 That is just not yard waste. It was tree
12 trunks and humongous trees and things to where they
13 can't pull the pile apart and separate the contents and
14 that. They have never had --

15 **Q. I understand. Let me ask the next question.**
16 **As far as this process goes, a good way to handle the**
17 **process, you know, as required under the law is to ask**
18 **a question and then you answer a question. Okay?**

19 A. Okay.

20 **Q. So your testimony was then that as you stated**
21 **and then were you present during those dates when the**
22 **actual burning --**

23 A. Yes.

24 **Q. -- of the pile occurred?**

1 A. Yes.

2 Q. And what did you observe as far as the
3 procedures that the employees of Rankin used in the
4 burning of this pile of commingled materials?

5 A. Well, one of them I know is a convicted felon.

6 Q. I didn't ask you that. I asked you what you
7 observed in their procedures for burning the pile.

8 A. The wind shifting for one. And my friend
9 calling me and complaining to me that she has COPD and
10 the smoke would bellow into her home.

11 MR. MUDD: Objection.

12 A. And from now she was supposed to testify
13 today, but she passed away from COPD. But anyways, she
14 was one of the people that signed the petition of
15 witnessing the smoke shifting every hour on the hour.

16 You couldn't tell which way the smoke was
17 going to go. And the apartments were only like two
18 blocks away where the smoke would go all the way on the
19 other side of town for hours.

20 BY MR. DREW:

21 Q. Very good. I was asking you as far as the
22 procedures that you observed and witnessed, as far as
23 the lighting of the burning of the dump by the
24 employees, you were talking about that day you went,

1 **they put some type of fuel on the fire?**

2 A. Yes.

3 **Q. Can you describe that in more detail?**

4 A. Yes. They would come out with big 5 gallon or
5 I would say maybe 10 gallon diesel fuel and pour it all
6 over that and then would ignite it. Various chemicals.

7 They would start -- and now they have
8 something new that just burns. And for some reason it
9 just smokes and smokes for days and it is unattended.
10 There is no dumpster.

11 And all of this is -- all the debris
12 separation before it goes into the locked up fence
13 isn't done. And then they push it into the fire with a
14 great big front end loader.

15 And once the fire started, they have to keep
16 packing it in tight which is 27 and a half feet away
17 from a building. Any amber on a given day will burn
18 that down which it has several cars that are filled
19 with gasoline. And it is a big building which is in
20 violation with the fire code.

21 But the mayor and the fire chief kind of
22 overlook the situation. But that is a really fire -- I
23 have been told by the fire department that --

24 **Q. And then can you describe, have you been out**

1 **there on the dates that you stated? Were you out there**
2 **while it was actually, the burning was occurring?**

3 A. Yes.

4 **Q. And so when you were out there, did you**
5 **witness any effects and results of the burning into the**
6 **atmosphere? What did you witness?**

7 A. Yes. One of my neighbors --

8 **Q. I am asking you not about your neighbor, but I**
9 **am asking you what you witnessed when you saw, you**
10 **know, the burning going on. What actually, if**
11 **anything, happened to the atmosphere around the site?**

12 A. I was on 3rd and Gunthrie and with the whole
13 -- my neighbors and in an apartment complex with the
14 smoke actually with the ashes coming to the apartment
15 complex and an ash literally -- it is in my statement
16 by in her own handwriting, an ash landed on her head
17 and burnt her on the head.

18 **Q. You observed that?**

19 A. Yes, sir. I was standing right there with her
20 with the ashes in the wind on that particular date blew
21 right straight to the apartment complex.

22 **Q. Can you describe the actual, the fire that you**
23 **observed when they were burning the site? The size of**
24 **the fire?**

1 A. It was big.

2 **Q. Can you give some dimensions?**

3 A. Say about five tree trunks, limbs, things and
4 debris in it and it burnt for several days.

5 **Q. And when were you witnessing this burning of**
6 **the waste at the site, what direction were you at in**
7 **relationship to the dump site?**

8 A. I went from the east.

9 **Q. You were -- what direction were you when you**
10 **were at this apartment you were talking about from the**
11 **dump site?**

12 A. Just a little east. I would say about a block
13 and a half east. Three, four hundred feet.

14 **Q. And in a residential apartment then?**

15 A. Yes.

16 **Q. And on other occasions besides the one you**
17 **described where you were at the apartment, had you**
18 **witnessed the burning of the dump site? Were there**
19 **other occasions when you witnessed the burning of the**
20 **dump site?**

21 A. Yes.

22 **Q. How many other occasions would you say?**

23 A. I would say on an average of once a month for
24 the last 4, 5 years.

1 **Q. And on those occasions what did you observe as**
2 **far as emissions into the atmosphere from the burning?**

3 A. I have seen animals that were in the vicinity
4 and that nest -- and that nest in some trees there that
5 once the smoke was there that all the animals cleared
6 out.

7 And especially springtime I observed the
8 debris washing after a hard rain all the ashes and the
9 stuff going straight down into the creek where it was
10 actually floating.

11 And I remember, you know, like there used to
12 be fish there. There used to be, you know, a lot more.
13 And over the years it is, I have witnessed the stuff
14 floating in the creek. You know, from the ashes from
15 the woodpile that is 75 feet and it goes right straight
16 down into the creek. And I have got a picture of the
17 stuff floating around in the creek.

18 **Q. And in relationship to the, this site, this**
19 **burning site of the waste by the Village of Rankin,**
20 **what is the location of the water, you know, tributary**
21 **you are speaking of from the site?**

22 A. 75 feet on the west side right behind on
23 railroad property, you know, where the railroad trussel
24 is. And then after all the burning and all the ashes

1 and all the stuff, they take it to the east side and
2 dump it right in the middle of town where there is, you
3 know, on the railroad they use it for fly dumping the
4 ashes. It is hazardous. And there is no place that
5 they take it.

6 **Q. Can you specifically tell the Court what types**
7 **of materials and objects were burned besides the, you**
8 **know, the tree clippings and the yard waste?**

9 A. Garden hose. Shoes, aerosol cans. Right now
10 even there is plastic in the pile right now that are
11 there. And I have seen where they have shoved over
12 other artifacts in the last month or two where people
13 have dumped stuff but they have shoved it where it is
14 covered up and it is in the middle of the pile right
15 now.

16 There is no pulling it all apart to get --
17 the contaminants that are in the middle of the pile
18 right now, they have no intentions on, you know, of
19 that. And then right now that is just their way they
20 roll. That is just the way they roll.

21 **Q. As far as do you know the names of the**
22 **employees from Rankin?**

23 A. Sean McAllister and Rob so and so. I don't
24 know. I think the one doesn't even have a high school

1 education. I am not sure.

2 **Q. And so do you know what Sean McCallister's**
3 **position is with the --**

4 A. He is the Rankin Village supervisor of Public
5 Works.

6 **Q. And then you observed the fact that and**
7 **testified that some of the effects of the burning of**
8 **this site at this site where they have yard waste and**
9 **other materials that are polluting the environment.**

10 **And what other effects are those having to**
11 **the Rankin community besides what you have testified**
12 **to?**

13 A. Well, they are having several effects because
14 I am not the only person that, you know, that has been
15 subject to this.

16 The public within my petition which I have
17 turned in to Mr. Mudd, several other people have had
18 different type of complaints by this that was in the
19 petition that they registered themselves. Health
20 factors.

21 **Q. Okay.**

22 A. Health factors. Definitely health factors.

23 **Q. What other effects?**

24 A. Like I say, it is an effect all the way around

1 on the animals, on the insects, on the plant
2 vegetation. It is just a really bad situation.

3 **Q. And then before you filed the complaint, did**
4 **you have any communications with the Village of Rankin**
5 **about the waste site?**

6 A. I attend the Village board meetings every
7 month. I have asked them to try to compromise to maybe
8 a new location to make some kind of remedy.

9 Other people have been at the Village board
10 meetings but they don't put you on the agenda because
11 when you are on the agenda, then they have to take
12 minutes.

13 And when there is minutes, there is record.
14 And then if you can refer back to the record book, it
15 is kind of like a fixed thing right there that the
16 Village trustees don't really know what is happening.
17 They just correspond between the mayor and the Village
18 attorney. That is it.

19 **Q. Now these meetings that you attended, were**
20 **some of these meetings before you filed your complaint**
21 **on February 15?**

22 A. Yes.

23 **Q. And so when you brought your complaint about**
24 **the waste site and the pollution generated by the**

1 **burning of the waste site, who specifically did you**
2 **speak to? Anyone specifically or just the board, the**
3 **trustees?**

4 A. Well, not the board. Just the mayor. But I
5 wasn't there by myself. Other people from the Village
6 have been down there complaining, complaining,
7 complaining, complaining. And it just falls on deaf
8 ears.

9 **Q. Was there any communications back to you as**
10 **far as trying to change their procedures?**

11 A. None. None whatsoever. None.

12 **Q. Now you filed a complaint in this case. As**
13 **part of your complaint, you attached photographs,**
14 **correct?**

15 A. Yes, sir.

16 MR. DREW: Your Honor, do you have the court
17 file for this offhand?

18 HEARING OFFICER WEBB: No. I have a copy of
19 the complaints.

20 MR. MUDD: Just a general objection to the
21 ones that don't have date and time stamps on them. For
22 foundation purposes obviously subject to counsel's
23 ability to do that. The other problem I have with
24 these photos, they are just shots of trash in a grassy

1 area.

2 There is no real, I am guessing Mr. Polchow
3 is going to say they are from there but there is
4 nothing that actually lends it to any credibility. But
5 subject to those objections, relevance to the case.

6 HEARING OFFICER WEBB: I am going to assume
7 you are going to lay some foundation.

8 MR. DREW: Yes.

9 HEARING OFFICER WEBB: Go ahead.

10 BY MR. DREW:

11 **Q. Okay. So I would like to show Mr. Polchow**
12 **what I will mark as -- I have, these were, you know,**
13 **documents that were produced pursuant to discovery.**
14 **They are marked for discovery purposes.**

15 **So I would like to just, you know, follow the**
16 **corresponding markings on these documents that were**
17 **used for discovery. So I am going to go with Exhibit C**
18 **and, you know, it is Pages 42 to 108 of --**

19 HEARING OFFICER WEBB: We will call that
20 Complainant's Exhibit C. Is there going to be an A and
21 B?

22 MR. DREW: I may have A and B, yes. I am just
23 jumping around.

24 HEARING OFFICER WEBB: It already says C on

1 it?

2 MR. DREW: Yes. These are for understanding
3 and purposes of the presentation since it is voluminous
4 here.

5 BY MR. DREW:

6 Q. So I will present to Mr. Polchow Complainant's
7 Exhibit C, Pages 42 through 108 for identification
8 purposes.

9 A. Okay.

10 Q. If you want to take a look at those, take a
11 couple of minutes to review those photos.

12 MS. HUBER: Can we have some location where
13 they are located in the discovery or the complaint?

14 MR. DREW: They were part of discovery.

15 MS. HUBER: I am aware of that. I am just
16 saying is there an indication on the photos? Is there
17 a number written next to the photo or I know that Mr.
18 Polchow has written some captions next to them. Are we
19 referring to a particular picture at this point or?

20 MR. DREW: I haven't asked him any questions.
21 When I ask him the questions, I will address that.

22 MS. HUBER: It will take us a little bit to
23 look through them.

24 MR. DREW: I sent them to your predecessor

1 counsel.

2 MR. MUDD: Ours are just labelled like No. 4
3 or No. 4 or sticky notes or --

4 HEARING OFFICER WEBB: Just so they can follow
5 along while he testifies.

6 MR. DREW: No problem. Okay.

7 BY MR. DREW:

8 **Q. Do you recognize those photographs?**

9 A. Yes, I do.

10 **Q. And then what are those photographs depicting?**

11 **What is --**

12 A. The railroad property outside of the entrance
13 facing west from Gunthrie Avenue on railroad property.

14 **Q. As far as like this lawsuit, what are those**
15 **photographs pertaining to?**

16 A. No. 7 is the front end loader pushing the
17 debris from Gunthrie going, pushing west towards the
18 fire pit. No. 7 is --

19 **Q. What I am asking you generally, Mr. Polchow,**
20 **those, who took those photographs?**

21 A. I did. And the reason why --

22 **Q. Well, I don't want to ask you that yet, but**
23 **you took those photographs, correct?**

24 A. Yes. I made sure the fence area was in there

1 so we could get the location the fence.

2 **Q. What fence are you speaking about?**

3 A. The fire pit fence that closes it in.

4 **Q. The enclosure fence?**

5 A. I made sure that the fence was in there so we
6 could make sure of the area which I am filming.

7 **Q. And what approximate date did you take those**
8 **photos?**

9 A. Various dates. On 08/17/15 I have got here.
10 I would have to go over my memos and my dates on other
11 pictures that I have taken and dates and that, but I am
12 working with what I got right here.

13 **Q. Let me ask you this: You filed your complaint**
14 **in this case on February 15, 2015. Were these**
15 **photographs taken before February 15, 2015 by you?**

16 A. I got August the 3rd, '15.

17 **Q. Right. But were any of the photographs taken**
18 **before you filed the complaint?**

19 A. No.

20 **Q. No? So were these on or about the time that**
21 **you filed the complaint?**

22 A. Yes.

23 **Q. And so and you took the pictures?**

24 A. Yes.

1 **Q. And the pictures depict what pertain to your**
2 **complaint? What do they depict? What area in Rankin?**

3 A. West of Gunthrie and on the railroad property
4 and actually at the time when this was transpiring.

5 **Q. Right. I mean, is that the site where they do**
6 **the burning, those pictures?**

7 A. Yes.

8 **Q. And you are familiar with how the site looked**
9 **on the date that those pictures were taken; is that**
10 **correct?**

11 A. Yes. And the location, like I say, the fence
12 gives it the location.

13 **Q. Okay. And then let me ask you here so I would**
14 **ask you to take a look at Photograph C-43. And that is**
15 **a set of three photographs, Page C-43. And what are**
16 **those photographs of?**

17 A. An outside tree company coming in dumping here
18 on 07/07/15.

19 MR. MUDD: Objection to foundation,
20 speculation.

21 MS. HUBER: Can we see the picture?

22 MR. DREW: You can take a look at all of
23 those.

24 HEARING OFFICER WEBB: What was your

1 foundational concern?

2 MR. MUDD: When the pictures were taken.

3 HEARING OFFICER WEBB: Okay.

4 BY MR. DREW:

5 Q. So turning once again to C-43, is that the
6 dump site, Rankin?

7 A. Yes.

8 Q. And what do those three pictures show on C-43?

9 HEARING OFFICER WEBB: Can we get an
10 approximate date on that?

11 BY MR. DREW:

12 Q. What was the date that those pictures were
13 taken?

14 A. 07/07/15 at 8:45 a.m.

15 Q. What do those pictures show?

16 A. It shows that they were preparing to push this
17 into the fire pit and ignite it.

18 Q. I mean, those are pictures of what
19 specifically? I mean, what specifically is it showing?

20 A. I don't know. Rankin's yard waste, grass
21 clippings that they take out all the debris and they
22 push it in there and it shows --

23 Q. Are there any -- besides the yard waste and
24 clippings, is there any other objects in that picture

1 **that you can observe?**

2 A. Plastic.

3 **Q. Do you want to point out for the Court where**
4 **that is?**

5 A. I can't really tell with this black and white
6 in here.

7 HEARING OFFICER WEBB: Are you going to be
8 offering the original photos?

9 MR. DREW: These are the photos that I have at
10 this time. We don't have the originals, just these
11 copies that were made.

12 BY MR. DREW:

13 **Q. I think you said you turned over the original**
14 **to the other side?**

15 A. Yes.

16 **Q. At the beginning of the case when he wasn't**
17 **represented by counsel.**

18 A. Mr. Mudd has all the originals. I turned them
19 all in to him.

20 MR. MUDD: No. Your Honor, I was uninvolved
21 in this case until last year.

22 A. It was Curtis Anderson and he divulged all
23 that over to you.

24 MR. MUDD: I do not have original pictures.

1 BY MR. DREW:

2 Q. That is all right. Let me go to --

3 A. There.

4 Q. Okay. This is C-47 and it is a group of three
5 photographs. For identification what is shown in that
6 picture?

7 MR. MUDD: Again, can we have foundation of
8 when?

9 A. Plastics.

10 BY MR. DREW:

11 Q. And as far as when was that photograph taken
12 by you approximately?

13 A. On that 07/07/15 date.

14 Q. And then did you take the photographs?

15 A. Yes.

16 Q. And can you point out to the Court, you said
17 there is plastics that are showing in the photo?

18 A. Right here. I have the arrow pointing right
19 there to them.

20 HEARING OFFICER WEBB: Can I see that?

21 A. Yes. This is plastic, Your Honor. And then
22 this is plastic. I put the arrow in at the time to --

23 HEARING OFFICER WEBB: This is Page C-47?

24 A. Right.

1 BY MR. DREW:

2 Q. Does that Plaintiff's Exhibit C, Group Exhibit
3 C, Page 47, does that for identification fairly and
4 accurately show the inner section as it appeared when
5 you took the photograph?

6 A. Yes, sir.

7 Q. I will show you what has been marked as Page
8 C-50 of Complainant's Group Exhibit C for
9 identification. Can you tell the Court what, when that
10 picture was taken?

11 A. I would say I really can't unless I go over my
12 notes on when this was taken, but I know where it was
13 taken inside the fire pit through, you know, I didn't
14 go inside the area but I did take it from the top down.

15 And these are the type of debris and cans and
16 things and plastics and metals and all kinds of stuff
17 inside the fireplace after the burning of 07/07/15.

18 This picture right here after all this was
19 burnt, this is the aftereffect of inside the fire pit
20 on the railroad property that is west of Gunthrie
21 Avenue.

22 This is the last of the remains. This is
23 what gets washed down into the creek. This is what
24 gets taken over to the other side and dumped on

1 railroad property just to --

2 **Q. So that photo was taken on or about 07/07/15?**

3 A. Yes. But after the fire. So I would say
4 shortly after it.

5 **Q. Does it fairly and accurately show the inner**
6 **section as it appeared on that date?**

7 A. Yes.

8 **Q. I will show you what is marked as C-61 of**
9 **Complainant's Group Exhibit C for identification. What**
10 **is that picture or when was that picture taken**
11 **approximately?**

12 A. It was taken on 08/03/15. Right at the time.
13 It is an unattended fire and with tons of smoke.

14 **Q. Okay. And who took that picture?**

15 A. I did. And you notice I put the fence in
16 there to get the location. And this is when -- this
17 was with the wind blowing. In this picture the wind
18 was blowing directly east into the community.

19 And give or take, you know, like the Chicago
20 weather, an hour later it was blowing just the opposite
21 towards all the animals in the heavy forest deal.

22 **Q. And then does that picture fairly and**
23 **accurately show the site, the public waste site of**
24 **Rankin on the date it was taken?**

1 A. Definitely. And I have got down smoke. So
2 they must have had another fire on September 5 of '15.
3 So these are actually three separate fires. I got the
4 3rd, the 17th and 09/15. These are three separate
5 fires.

6 **Q. And then as far as this photograph -- or**
7 **strike that question. I will show you what has been**
8 **marked as C-85 of Group, Complainant's Group Exhibit C**
9 **for identification. When was that picture taken?**

10 A. This was in December shortly before Christmas.

11 **Q. Of what year?**

12 A. Of '15.

13 **Q. And who took that photograph?**

14 A. I did.

15 **Q. And what is that a picture of?**

16 A. This is where the fire pit where the ashes
17 rain and are washed down 75 feet into the creek. Every
18 time it rains, the contents from the fire go to the
19 lowest spot by the fire pit and washes right into the
20 creek.

21 **Q. Okay.**

22 A. So you can see the water and the fire pit in
23 the right -- left hand corner and this is the creek
24 right here on the back.

1 **Q. Thank you.**

2 A. This is a piece of plastic.

3 **Q. This is Complainant's Group Exhibit C, Page 96**
4 **for identification. Do you recognize that photo?**

5 A. Yes, I do.

6 **Q. Who took that photograph?**

7 A. I did.

8 **Q. And what date was it taken?**

9 A. It was taken I believe just shortly before
10 August before the 3rd.

11 **Q. In what year?**

12 A. '15.

13 **Q. And what does that picture show?**

14 A. This picture here shows that on this specific
15 fire pouring oil to get the -- and diesel and
16 everything to get the fire started. And after the fire
17 was over with, again, I took before and after. And
18 this shows all the contents that was in the fire that
19 burnt.

20 **Q. What contents are you speaking of?**

21 A. This large piece of plastic right here because
22 the fence area, I had to take the top view of the --

23 HEARING OFFICER WEBB: Can you point it out to
24 me too?

1 A. Yes, ma'am.

2 HEARING OFFICER WEBB: What is that?

3 A. A very large piece of plastic that was sitting
4 after the fire was all over with that was charred.

5 Well, they scoop up all of that and now all of this is
6 still on the east end of town on the railroad property
7 where they just leave it on a pile which is affecting
8 the nature walk and it makes no sense. It makes no
9 sense.

10 BY MR. DREW:

11 **Q. You are saying they remove it from the burn**
12 **site?**

13 A. Take it to the other side of town and leave it
14 sit there year after year after year.

15 **Q. Does that photo fairly and accurately show the**
16 **site, the dump site, you know, on the date that the**
17 **photo was taken?**

18 A. Yes, sir. Can I bring this to your attention
19 here?

20 MR. MUDD: I object. Nonresponsive. There is
21 no question.

22 HEARING OFFICER WEBB: Wait. Hang on.

23 MR. MUDD: I object, nonresponsive. There is
24 no question.

1 HEARING OFFICER WEBB: What was the last
2 question?

3 MR. DREW: The last question was does it
4 fairly and accurately, you know, show the site, the
5 burn site on the day the photo was taken. That was the
6 last question.

7 HEARING OFFICER WEBB: What was the answer to
8 that question, Mr. Polchow?

9 A. Yes, it is.

10 BY MR. DREW:

11 **Q. What else does that photo show? Can you tell**
12 **the Court?**

13 A. Yes, sir. This building right here is 27 and
14 a half feet from the fire. All it takes is a little
15 amber over here on a fall day where there is leaves and
16 stuff and this building is going up.

17 And there is neighbors right here that live
18 across the street and everything. And this fire is
19 just a walking accident which you are not supposed to
20 have an open range area be 27 and a half feet. And
21 that is from the fire department itself. And that --
22 and they are overlooking this hazardous accident
23 waiting to happen which is, you know --

24 MR. MUDD: Move to strike all of that

1 testimony as it is completely irrelevant to burning or
2 air pollution.

3 HEARING OFFICER WEBB: I will allow it. It
4 describes the photo.

5 MR. MUDD: I was just talking as it describes
6 to the safety concerns.

7 BY MR. DREW:

8 **Q. Do you know what type of building that is?**

9 A. Vendors own that building and it is filled
10 with cars. Cars and things. And if that building goes
11 up, there is going to be some explosion.

12 **Q. It is a commercial business?**

13 A. I don't know. It is more of a storage,
14 private.

15 **Q. Thank you. So regarding these photographs**
16 **which are Pages C-47, C-50, C-61, C-85, C-96, Mr.**
17 **Polchow, do you have the originals of these**
18 **photographs?**

19 A. I believe I do and I also shared them with the
20 other attorney. I am not sure on that whether I sent
21 the originals, but I do have the negatives if I need to
22 research it and that I do have them somewhere.

23 **Q. So you were unable to locate the originals for**
24 **the hearing today? Is that what you are saying?**

1 A. Yes.

2 **Q. And but those photos accurately reflect the**
3 **original photos that you took?**

4 A. Oh, yes. And I have other photos, other
5 dates, other times. This isn't just an isolated type
6 incident. This is an oncurring (sic) situation.

7 **Q. Now these photos, do those photographs depict**
8 **your observations of the Village of Rankin burning**
9 **site, waste site, you know, before February 15, 2015?**

10 A. Oh, yes.

11 **Q. So those are similar observations that you**
12 **made before the complaint was filed?**

13 A. Yes. Tremendous harm to animals. Things
14 still carrying on. Still business as usual.

15 MR. DREW: I move to admit these exhibits,
16 Your Honor. Thank you.

17 HEARING OFFICER WEBB: Now are these in order
18 of -- okay. So it starts here? This is Page 1?

19 MR. DREW: Right. I can write Group Exhibit C
20 on there if you would like me to.

21 HEARING OFFICER WEBB: Let's go off the record
22 for a second.

23 (Discussion held off the record.)

24

1 (The court reporter marked a document as
2 Exhibit C.)

3 HEARING OFFICER WEBB: Go back on the record.
4 I am going to admit Complainant's Exhibit C.

5 MR. DREW: Thank you, Judge. I am going to
6 mark or ask the court reporter to mark this as Group
7 Exhibit A. It would be Photos 1 through 7.

8 (The court reporter marked documents as
9 Exhibits Nos. A(1) through A(7).)

10 MR. DREW: I will show these to opposing
11 counsel.

12 BY MR. DREW:

13 **Q. All right. Mr. Polchow, I want to show you**
14 **what has been marked as Complainant's Group A (1)**
15 **through (7). If you could, please take a look at those**
16 **photographs.**

17 A. Yes.

18 **Q. Can you look at all of them, all the photos**
19 **please?**

20 A. Yes, sir.

21 **Q. And do you recognize these Photographs 1**
22 **through 7?**

23 A. Yes, I do.

24 **Q. And when were these photographs taken**

1 **approximately?**

2 A. On the 17th.

3 **Q. Of?**

4 A. Somewhere on '15. On the 17th of say July.

5 **Q. Who took the photographs?**

6 A. I did.

7 **Q. And then I ask you what Photo 1 shows? Can**
8 **you tell the Court what that shows?**

9 A. Photo 1 in Group A actually is another fire
10 from someone's backyard that was burning everything
11 that there was to burn; garbage, cans, aerosol, other
12 things that actually brought it up there to the fire
13 pit from their backyard, brought it up there to put
14 here to dispose of their own personal backyard burning.
15 This is a second burning with all the contaminants and
16 that from a person's backyard.

17 **Q. Okay. So does that depict the Village of**
18 **Rankin waste site?**

19 A. Yes.

20 **Q. And does it fairly and accurately represent**
21 **what the site looked like on July 17, 2015?**

22 A. Yes. See on this pile right here, they would
23 add debris, yard waste, this, that over this fire and
24 then push -- this is a second fire going into the fire

1 pit to be burnt again.

2 **Q. Okay. Showing you Photo 2 of Group Exhibit A**
3 **for identification. What is that picture showing?**

4 A. That is going --

5 **Q. Tell me what date was that photo taken.**

6 A. This photo was taken in the spring of the
7 year.

8 **Q. Of what year?**

9 A. I would say '14. '14, '13.

10 **Q. What does that photo show?**

11 A. It is facing northwest and it is facing after
12 a fire of the debris piles that they are going to move
13 on the other side of town and put them back on railroad
14 property to be washed down really in the other creek
15 going the other way.

16 **Q. That again is the Rankin waste site?**

17 A. Yes. That doesn't even, shouldn't even be
18 there.

19 **Q. And who took that photo?**

20 A. I did.

21 **Q. And does it fairly and accurately represent**
22 **what you observed on the date that the picture was**
23 **taken?**

24 A. Yes. And I would like to point this out to

1 you, Counselor, the little water right here, see
2 where --

3 MR. MUDD: I object. There is no question.

4 HEARING OFFICER WEBB: He is describing the
5 photo, it is okay. Go ahead. What is in the photo?

6 A. There is a little water right here is where
7 the creek where it washes off this pile and works its
8 way down to the creek.

9 HEARING OFFICER WEBB: I will write the number
10 on the back and keep them in order so we don't get
11 confused.

12 BY MR. DREW:

13 Q. We will show you Photo 3 of Group Exhibit A.

14 A. Yes.

15 Q. And when was that picture taken?

16 A. This was in the fall of the year just
17 recently. Like I would say October, September.

18 Q. Of what year?

19 A. Of '17.

20 Q. And what is that photograph?

21 A. It has plastic plants, pots that are submerged
22 in all of the other tree stumps and trees and branches
23 and things that are overlooked by the Public Works
24 people.

1 Q. Was that photo taken by you?

2 A. Yes.

3 Q. And is that at the fire pit?

4 A. Yes.

5 Q. In Rankin?

6 A. Yes.

7 Q. And does it fairly and accurately represent
8 the fire pit on the date that you took the photo?

9 A. Yes.

10 Q. Thank you. Let me show you a Photograph No.

11 4. Group Exhibit A.

12 A. This was in the fall of the year.

13 Q. What year?

14 A. October 15.

15 Q. What year?

16 A. I would say '15.

17 Q. Okay. And who took that photo?

18 A. I did.

19 Q. And is that a photograph of the fire pit in
20 Rankin?

21 A. Yes.

22 Q. And can you tell the Court what that shows?

23 A. It shows a lot of leaves that from a stump
24 grinder where they grind up all of the -- and Rankin

1 doesn't have a stump -- not a stump grinder, but you
2 know, that mulches. And this is all mulched so it had
3 to come from some type of business. They don't own a
4 mulcher in Rankin. This is somebody that fly dumped
5 this.

6 **Q. And does that picture fairly and accurately**
7 **show the scene on the date the photograph was taken?**

8 A. Yes.

9 **Q. And I will ask you to take a look at**
10 **Photograph 5 of Group Exhibit A for identification.**
11 **When was that picture taken?**

12 A. That was taken the same as the very first but
13 it was a different section in the pile where they could
14 show the plants and the flower pots and whatever.

15 **Q. Okay. Do you remember was it July 17, 2015 or**
16 **the date?**

17 A. '15.

18 **Q. 2015?**

19 A. Yeah.

20 **Q. And who took that photo?**

21 A. I did.

22 **Q. Is that a photo of the fire pit?**

23 A. Yes. Well, it is outside of the fire pit to
24 where all this takes place before they push it into --

1 they open up the gates and the front end loader and
2 then even when they get it started, even the employees
3 themselves have to breathe the smoke once it gets
4 blazing and they have to keep pushing it up there.

5 They themselves in order to keep their job
6 are breathing the smoke. You can't even see them
7 because they are inside pushing it up and the smoke is
8 going everywhere.

9 **Q. Just so I understand your testimony, you are**
10 **stating that it was not a picture of the fire pit**
11 **itself, but it was an area in close proximity to the**
12 **fire pit; is that right?**

13 A. Yes. Right out in front of the gates. And
14 there was no one there at the time. I was by myself
15 taking pictures of before and after and before the
16 fires and during the fires and then sometimes where no
17 one is around.

18 **Q. And so does that photo fairly and accurately**
19 **depict the scene?**

20 A. Yes.

21 **Q. On the date the photograph was taken?**

22 A. Oh, yes.

23 **Q. I will show you Photo 6 for identification.**
24 **When was that picture taken?**

1 A. You know, I can't recall on this one.

2 **Q. No?**

3 A. No. I can't recall.

4 **Q. Okay. I will leave that one out. And I will**
5 **show you Photograph 7 of Group Exhibit A for**
6 **identification. Do you know when that picture was**
7 **taken?**

8 A. Spring of '17. Again, it shows some kind of
9 grinding of mulch machinery grinding from a tree
10 service. You can see how fine and where someone, a
11 tree service, had come in.

12 **Q. Who took that photograph?**

13 A. I did. It was in the spring of the year of
14 '17.

15 **Q. And then --**

16 A. That is additional smoke that people breathe.

17 **Q. Is that an area in front of the fire pit**
18 **again?**

19 A. Yes, it is. It is east facing west. From
20 Gunthrie street. And like the other attorney said,
21 they have signs out there but people don't, they are
22 breaking the law.

23 They don't, you know, there is no one around.
24 They pull up in a pickup truck and everything goes and

1 they go. There is no enforcement.

2 **Q. How is the -- in this Picture No. 7, can you**
3 **explain to the Court what the Village of Rankin**
4 **employees, how they handle these mounds of waste, their**
5 **operations? Can you explain what happens with those**
6 **mounds of waste?**

7 A. What it is is on a given specific day or month
8 or week depending on what people come and go, they
9 start at the back of the -- back of the pit, they take
10 the used old fire over to the other side of town and
11 get it ready for another fire.

12 And then it builds up, builds up with all
13 kinds of debris, things, stuff on given days, times,
14 weeks until it gets all the way out say 100, 200 feet.
15 And then they do the big push in and light it.

16 And then they get it ready for the next
17 whatever out there. And then the big push, they ignite
18 it and they don't stay with the fire. As a matter of
19 fact it is unattended fire. It just burns for days and
20 things and there is no control.

21 **Q. So that picture shows these mounds of waste**
22 **and behind the mounds of waste there is a fenced area?**

23 A. They open up the gates.

24 **Q. That is the fire pit?**

1 A. We will call it the fire pit.

2 **Q. What equipment do they use to move?**

3 A. A front end loader. This type of material
4 cannot be handled by hands when they -- it is totally
5 physically incapable of pulling this apart taking the
6 contents out.

7 They use a front end loader. That is the
8 only way that this works is the front end loader. I
9 mean, we are talking a heavy diesel Caterpillar that
10 pushes serious tons of stuff.

11 **Q. How many times did you, you know, personally**
12 **observe and witness those operations by the Village of**
13 **Rankin preceding the filing of your complaint on**
14 **February 15, 2015?**

15 A. Give or take -- it goes by the public. When
16 the public is all like spring cleaning, all this stuff
17 is out there.

18 And then there is months that weather wise
19 where it takes a little while for them to build up,
20 this and that. And then it could be a week or it could
21 be a month.

22 **Q. But I was asking you how many times you**
23 **personally witnessed and observed the operations of**
24 **moving it from these --**

1 A. Any time there was a fire. Before a fire,
2 after a fire. I only live close by and I would go down
3 and ask them, hey, you guys, or try to mention
4 something at the Village board meeting to try to
5 compromise, work this out. Anything.

6 **Q. So how many times approximately would you say**
7 **in a year in 2014 would you have observed those**
8 **operations? How many times?**

9 A. 6 to 12 times.

10 **Q. And in 2013?**

11 A. Um-hum. 6 to 12 times.

12 **Q. You testified already most of this was done in**
13 **the spring. Was it the summer and fall?**

14 A. Yes. Most of this is done between the spring
15 and fall.

16 **Q. All right.**

17 HEARING OFFICER WEBB: You are not doing
18 anything with that, correct?

19 MR. DREW: Yes.

20 HEARING OFFICER WEBB: We have been calling
21 this Photo A(7) but I am going to label it A(6).

22 MR. DREW: I move to have admitted Photographs
23 of Group Exhibit A(1) through (6).

24 HEARING OFFICER WEBB: Group A photos (1)

1 through (6) are admitted.

2 MR. DREW: Thank you.

3 BY MR. DREW:

4 **Q. Mr. Polchow, as far as this complaint that you**
5 **filed against the Village of Rankin, what type of**
6 **remedies are you seeking regarding this pollution, this**
7 **alleged pollution?**

8 A. To shut it down. Immediately.

9 **Q. And why do you want it to be shut down?**

10 A. For public safety. For the animals, for the
11 kids to have a place to walk to enjoy life and the
12 safety of everyone and health concerns.

13 **Q. Are you asking the Court to also impose any**
14 **civil fines?**

15 A. Oh, yes. Oh, yes, because they won't stop.
16 Once we are out of this courtroom, they will be right
17 back to it again.

18 **Q. And you are asking the Court to use its**
19 **discretion in imposing those fines?**

20 A. Yes, sir.

21 MR. DREW: And so can I have one minute with
22 my client?

23 HEARING OFFICER WEBB: Sure.

24 (Discussion held off the record.)

1 MR. DREW: I have no further questions.

2 HEARING OFFICER WEBB: Thank you. Mr. Mudd?

3 Your witness.

4 MR. MUDD: Your Honor, just for a clear and
5 accurate record, any of those photos obviously taken
6 after the date February 19 we would object to on the
7 basis of relevance as they do not relate to the
8 complaint that was filed by Mr. Polchow.

9

10 CROSS-EXAMINATION,

11 QUESTIONS BY MR. MUDD:

12 **Q. Mr. Polchow, I think we need to get to the**
13 **heart of this matter. And I think you touched, you**
14 **said you go to all the meetings for the Village of**
15 **Rankin, correct?**

16 A. Um-hum. Yes.

17 **Q. You have to say yes or no so she can type it**
18 **down.**

19 A. Yes and no.

20 **Q. You have requested a nature walk through those**
21 **railway tracks for how many years at this point?**

22 A. None.

23 **Q. None?**

24 A. Hm-mm.

1 **Q. You said that that facility is located on your**
2 **railroad?**

3 A. Yes, sir. I according to Ford County, I have
4 all my deeds, records filed in Ford County. And I am
5 coming back this way to Rankin, but there is some
6 difficulties here in Danville.

7 **Q. So this facility actually obstructs your**
8 **nature walk that you are trying to implement?**

9 A. Oh, the fire pit?

10 **Q. Yes.**

11 A. It obstructs everything from everybody and
12 everything and everywhere.

13 **Q. And you have petitioned to be put on the**
14 **agenda how many times for that nature walk on your**
15 **railroad property?**

16 A. None because they won't let me on the agenda.

17 **Q. But you have asked though?**

18 A. And because they won't take minutes at the
19 Village Board but I do have recordings and I am looking
20 out for the community, the best interest of the
21 community.

22 **Q. The site that we have talked about, that is a**
23 **fenced area?**

24 A. Yes.

1 **Q. Is it locked?**

2 A. Yes, it is. And the reason why they have the
3 fenced-in area is because it wasn't a fenced-in area.
4 And the little guys from the -- actually the EPA has
5 all the records where the kids were playing on it and
6 the kid caught on fire. And that is why they came up
7 with \$6,000 for the fence which is a really waste of
8 taxpayer's money.

9 **Q. So it is locked, correct?**

10 A. I have no idea. But it wasn't locked because
11 there was no fence there and a child burned up and it
12 is in the EPA records.

13 **Q. So you don't know? You have been out there,**
14 **it sounded like I believe somewhere between 18 and 36**
15 **times between 2013 through 2015 and you don't know if**
16 **it is fenced and locked?**

17 A. It is locked.

18 **Q. Is there signage before you get to that area**
19 **saying --**

20 A. Excuse me? Would you rephrase that?

21 **Q. Is there signage on the road as you enter**
22 **towards the facility?**

23 A. Is there signage?

24 **Q. Yes.**

1 A. There wasn't any until just recently.

2 **Q. Okay. Does that --**

3 A. Yeah. That was just put up a month ago or two
4 months ago.

5 **Q. That is on the roadway coming into the locked**
6 **fence area?**

7 A. No. That is on private property railroad
8 property just before you get to the back.

9 **Q. That is the road that you can come down?**

10 A. West of Gunthrie. They just put those up.

11 **Q. That is the way the public accesses to try to**
12 **get to that facility, correct?**

13 A. Yes.

14 **Q. I have labelled that Respondent's Exhibit F.**
15 **In 2015 you made --**

16 A. That is not enforced.

17 **Q. You made how many complaints to the Illinois**
18 **Environmental Protection Agency? Do you know?**

19 A. Pardon me?

20 **Q. Do you know how many complaints that you made**
21 **to the Illinois Environmental Protection Agency field**
22 **office in Champaign 2015?**

23 A. It is in my records.

24 **Q. Would you say more than 5?**

1 A. I was, worked with Mr. Bennett. And I would
2 have to look up my records there.

3 **Q. Would you actually say --**

4 A. I would actually say that I am going to file
5 an attorney registration disciplinary commission
6 complaint against you when we walk out of here.

7 **Q. Now your complaint actually necessitated an
8 open dump inspection checklist by the field office from
9 Champaign, correct?**

10 A. A couple of different times, yes.

11 **Q. One of those times was in August or I believe
12 the report was done in August, but then they sent you
13 the report in October. The inspection would have been
14 done by Mr. Burger. Do you remember him?**

15 A. No, I don't.

16 **Q. So you never received his report dated
17 September 9?**

18 A. No.

19 MR. DREW: What year, Counsel?

20 MR. MUDD: We are on E.

21 MR. DREW: What year?

22 MR. MUDD: 2015. Or excuse me, Respondent's
23 E.

24

1 BY MR. MUDD:

2 **Q. So this thing, you have never seen this?**

3 A. I asked them to come out and do a survey of
4 the soil. Is that what this is?

5 **Q. Yeah.**

6 A. Yes. And he came out and said that he was new
7 on the job. Said that he really couldn't do it right
8 and apologized and I never saw this.

9 **Q. Do you see his report right there?**

10 A. And the area that he took a soil sample wasn't
11 even in the same area.

12 **Q. Okay. Now you actually got in an argument**
13 **with him?**

14 A. No, no, no. Nope, nope, nope. Scratch that
15 from the record. I don't get in arguments with nobody.

16 **Q. When he said that he didn't find anything**
17 **after doing a sample --**

18 A. No, no, no. This was, they sent out someone
19 else than Mr. Bennett. They sent out several different
20 people that --

21 **Q. Counsel, this is Page 2 of the letter. So**
22 **you, Complainant called me after the inspection and**
23 **questioned Mr. Burger's findings. They were sure that**
24 **the land is contaminated and didn't believe I found no**

1 **sign of contaminations from those samples. That wasn't**
2 **you?**

3 A. Pardon me?

4 **Q. The Complainant called me after the inspection**
5 **and questioned my findings. They were sure that the**
6 **land was contaminated and did not believe I found no**
7 **signs of contamination and demanded that I take more**
8 **samples to prove your accusations. You don't remember**
9 **having that phone call?**

10 A. Yes. I remember that phone call.

11 MR. MUDD: I will be moving to admit E. That
12 is in your binder. That is correspondence from the
13 Illinois Environmental Protection Agency. Mr. Burger
14 works in the field operations office of Champaign for
15 the IEPA in which the open dump inspection checklist,
16 the Hearing Officer will note, nothing is checked and
17 correspondence says they are correctly maintaining the
18 waste disposal site or landscape waste. He did samples
19 of the dirt which were all --

20 MR. DREW: Objection.

21 HEARING OFFICER WEBB: Is this Exhibit E?

22 MR. DREW: It is not part of his case. He is
23 using it for impeachment purposes. This isn't his case
24 for the admission of evidence. He is using it for

1 impeachment purposes.

2 I object at this time for any admission of
3 those documents. And besides that those documents are
4 hearsay evidence. Without a foundation. He is using
5 it for impeachment purposes. I let that go.

6 MR. MUDD: I believe under the Illinois
7 Administrative Code as well as the hearing rules, one,
8 it is a business record; two, there is relaxed rules of
9 evidence in which the hearing officer can --

10 HEARING OFFICER WEBB: It is a business
11 record. I will admit it.

12 MR. MUDD: Thank you, Your Honor. And to save
13 us a little bit of time, I will move A through E.
14 Those are letters that were written between 2014 and
15 2015. The dates are all on them by the same field
16 officers that Mr. Polchow has said that he has worked
17 with in the past all noting that the landscape facility
18 is run within the constraints of the Illinois
19 Environmental Protection Act.

20 MR. DREW: Objection to his testimony about
21 the records. The records speak for themselves. I
22 object to, you know, if he wants to make -- there is no
23 witness here to testify. He is reading into the record
24 as if he was --

1 HEARING OFFICER WEBB: Are you going to ask
2 -- is anyone going to testify about anything in the
3 letters or are you just admitting them?

4 MR. MUDD: I am going to admit them in my case
5 in chief. I was trying to get that out of the way.

6 MR. DREW: There is no custodian whatsoever.
7 It is up to the Court, I understand, but it is relaxed
8 rules of evidence but you don't have a custodian here.

9 HEARING OFFICER WEBB: Let me look at them for
10 a second.

11 MR. DREW: We want the Court to rule justly in
12 this case.

13 HEARING OFFICER WEBB: I mean, all of the
14 letterheads look authentic. You know, I have certainly
15 seen open dump inspection checklists before. I am
16 going to go ahead and admit these exhibits.

17 MR. MUDD: Thank you, Your Honor.

18 HEARING OFFICER WEBB: I am going to call them
19 Respondent's Exhibits A through E.

20 MR. MUDD: Thank you. I believe F was already
21 admitted which was the sign. Your Honor, I have no
22 other questions.

23

24

1 REDIRECT EXAMINATION,

2 QUESTIONS BY MR. DREW:

3 **Q. Regarding Respondent's Exhibits A through E,**
4 **were those matters that, you know, pertain to**
5 **complaints that you made to the EPA?**

6 A. Yes.

7 **Q. Which EPA?**

8 A. In Champaign, but I had three separate -- Mr.
9 Bennett came out there and he found the fault in this.
10 They sent and I asked for an oil sample.

11 **Q. Hold on. When you say the fault in this, what**
12 **do you mean by the fault in this? And this Mr. Bennett**
13 **was working for the EPA and you said he found the fault**
14 **in this. Please explain what you mean by that.**

15 A. Well, he said that he was not sure of the
16 soil --

17 MR. MUDD: Objection, hearsay.

18 A. The soil samples.

19 HEARING OFFICER WEBB: I will hear what he has
20 to say.

21 A. -- to tell you the truth and didn't take them
22 in the right area.

23 HEARING OFFICER WEBB: What is your --

24 MR. DREW: He opened the door having those

1 admitted, you know, for hearsay doesn't apply so I am
2 asking that he reply to those instances that the EPA
3 came out as referenced in the exhibits and --

4 HEARING OFFICER WEBB: I will just say what
5 was your understanding?

6 A. My understanding was from one EPA guy that the
7 other EPA guy didn't take them in the right thing and
8 doesn't even really believe that he was just out there
9 too short of a time. And I was told by the other EPA
10 guy that his findings were not correct.

11 The one EPA guy told me that in a
12 conversation and the other EPA guy was there just too
13 short of a time on his samples and didn't do an
14 accurate test.

15 HEARING OFFICER WEBB: That was your
16 understanding of the situation?

17 A. Yes. That was my understanding at the time.
18 That is all I wanted to say.

19 MR. DREW: Thank you. Nothing further.

20

21 RECROSS-EXAMINATION,

22 QUESTIONS BY MR. MUDD:

23 **Q. Do you have any documents or letters or**
24 **response from the Illinois EPA or any of the employees**

1 **that would corroborate that statement?**

2 A. Yes. The lady up in Chicago on the water
3 situation and I believe his name was Bennett. I am not
4 sure on that. He would testify to that fact.

5 MR. MUDD: Okay.

6 A. If he was called in.

7 HEARING OFFICER WEBB: I think no one has
8 anything further for you. Mr. Drew, do you have
9 anything further to present for your case?

10 MR. DREW: I do not, Your Honor.

11 HEARING OFFICER WEBB: Is the Village -- are
12 your witnesses --

13 MR. MUDD: Your Honor, at this point I would
14 make a motion for directed finding under 9(A) air
15 pollution as in this Court's own order for a motion for
16 summary judgment states there has to be a showing of
17 air pollution, presence in the atmosphere of one or
18 more contaminants in sufficient quantities as such
19 characteristics and duration has to be injurious to
20 human, plant, animal, health or property or reasonably
21 interfere with the enjoyment of life or property.

22 Outside of Mr. Polchow's statements, we have
23 no evidence of any of that. He is not qualified to
24 render any expert opinions as to the pollution or

1 anything like that. And then under 9(A) and(C), again
2 we renew a motion for directed finding as we have
3 nothing but Mr. Polchow's self-serving statements as
4 well as his own photography.

5 For the Court to rely on at this point I
6 don't believe any Trier of Fact could rationally find
7 based upon even a preponderance of the evidence that
8 they have carried their burden or shifted it to us.

9 HEARING OFFICER WEBB: Motion denied. I am a
10 hearing officer, not an ALJ and I don't have the
11 authority to grant it.

12 MR. MUDD: We would be calling Sean
13 McAllister.

14 HEARING OFFICER WEBB: Call your first
15 witness.

16 MR. MUDD: Sean McAllister.

17
18 SEAN McALLISTER,
19 the witness herein, having been first duly sworn to
20 tell the truth, the whole truth and nothing but the
21 truth, was examined and testified as follows:
22
23
24

1 DIRECT EXAMINATION,

2 QUESTIONS BY MR. MUDD:

3 Q. Good morning, Mr. McAllister. Can you state
4 your full name and spell your last name?

5 A. Sean M. McAllister. M-c-a-l-l-i-s-t-e-r.

6 Q. Mr. McAllister, how are you employed?

7 A. Village of Rankin.

8 Q. What do you do for the Village of Rankin?

9 A. Maintenance.

10 Q. In regards to those responsibilities for
11 maintenance, do you assist in the operation of the
12 landscape disposal site?

13 A. Yes.

14 Q. How long have you maintained that site
15 personally?

16 A. 10 years.

17 Q. And what is the purpose of that landscape
18 site?

19 A. Picking up branches and stuff around town and
20 taking them down and burning them.

21 Q. In the 10 years that you have run the site,
22 has it always been fenced and locked?

23 A. No.

24 Q. Why did you have to fence it and lock it?

1 A. Because there was trash down there.

2 **Q. Who was throwing the trash in there?**

3 A. The first time I think a lot of it, you know,
4 was kids and stuff and people just dropping stuff off
5 and yanking it out of their pickup trucks.

6 Then it started to get to being like
7 refrigerators and, you know, so we fenced it off. And
8 now they dump outside of the fence. And as I bring it
9 in, we go through it and sort it.

10 **Q. And that is what I was going to get to. Since**
11 **we have -- when did that fence go into place?**

12 A. Maybe, I don't remember. I don't really
13 recall the date, but probably a couple of years after I
14 started.

15 **Q. So 2011?**

16 A. Somewhere in there.

17 **Q. Now I wanted to talk to you about what you**
18 **kind of alluded to. What is the procedure in which**
19 **somebody would drop off their landscape waste?**

20 A. They back down. It is open all the time then.
21 There is not set times. So they can dump off any time.

22 **Q. They dump it outside of the fenced area?**

23 A. Yes.

24 **Q. And the purpose for that is what?**

1 A. For me to sort it before I burn anything so
2 there is no trash in there.

3 **Q. So you personally go through and pull out any**
4 **trash?**

5 A. Yeah.

6 **Q. Is there a dumpster on site?**

7 A. No. We take it with a pickup truck back to
8 the dumpster at the shop.

9 **Q. Now there is also signage that has been put**
10 **up?**

11 A. Yes.

12 **Q. And what does that sign say?**

13 A. No trespass. One of them says no trespass.
14 Another one says -- I really don't recall. Burn
15 materials only or something like that I think it was.

16 **Q. That is where the public --**

17 A. Yeah. There is two of them. There is one on
18 each side of the road. And there is no trespassing
19 sign on the fence where the gate is and all the way
20 around.

21 **Q. Have you been or has the Village been**
22 **intentionally burning trash at the site?**

23 A. No.

24 **Q. Do you take all steps that you possibly can at**

1 **this point to prevent trash from getting into the site?**

2 MR. DREW: Objection. That is a leading
3 question. He is like testifying for him.

4 A. No.

5 HEARING OFFICER WEBB: Overruled.

6 BY MR. MUDD:

7 **Q. Has the Village taken every step in your**
8 **opinion to prevent trash from getting into that site?**

9 A. Yes. And safety for putting the fence around
10 it because when it is burning, I am on site when the
11 burn is going on. I put it out before I leave. I
12 cover it with dirt.

13 **Q. Has the Illinois Environmental Protection**
14 **Agency field office spoken to you?**

15 A. Yeah. They have been down multiple times and
16 they didn't find any violations that I am aware of.

17 **Q. And you have been there for 10 years?**

18 A. Yeah. I have been there since December of
19 '08.

20 **Q. To the best of your knowledge has anything but**
21 **landscape waste burned at that site?**

22 A. No.

23 MR. MUDD: No further questions.

24

1 CROSS-EXAMINATION,

2 QUESTIONS BY MR. DREW:

3 **Q. It is Mr. McAllister?**

4 A. Yes.

5 **Q. You have been working for the Village of**
6 **Rankin for 10 years approximately?**

7 A. Yeah. Approximately. Pretty close.

8 **Q. And then besides yourself working maintenance**
9 **for the Village of Rankin, are there any other**
10 **employees?**

11 A. Yes. I have a part-time guy started three
12 years ago.

13 **Q. So that would have been in 2015 approximately?**

14 A. Um-hum.

15 **Q. Other than the part-time employee and**
16 **yourself, are there any employees?**

17 A. No.

18 **Q. In the maintenance department?**

19 A. No.

20 **Q. Small department?**

21 A. Um-hum.

22 **Q. And how many -- does the part-time employee --**
23 **what is his name?**

24 A. Robert.

1 **Q. And does he assist you with --**

2 A. Everything.

3 **Q. With the landscape site?**

4 A. Um-hum.

5 **Q. Waste site? And how often does he work?**

6 A. Three days a week.

7 **Q. And what are his hours?**

8 A. 6 to 2 just like mine.

9 **Q. And then as far as is there -- what is used to**
10 **move the waste, the yard waste and clippings and --**

11 A. I have a backhoe.

12 **Q. What is used?**

13 A. A backhoe with a clamp.

14 MR. MUDD: I want to object, at this point
15 going beyond the scope of my direct. How they push the
16 waste or the trees around I don't really see is
17 relevant either.

18 HEARING OFFICER WEBB: I mean, would you
19 rather he wait until he calls him as --

20 MR. MUDD: No. He can get it all done, that
21 is fine.

22 BY MR. DREW:

23 **Q. So you use a backhoe?**

24 A. Um-hum.

1 **Q. Who operates that?**

2 A. I do.

3 **Q. And as far as you know, the site goes as far**
4 **as you push it from the front area into the fire pit**
5 **area that is now enclosed by a fence? Is that how you**
6 **do it?**

7 A. I push it all in a pile outside there and I go
8 around the pile and clamp it and start dragging it
9 back. And I turn around and put it in a pile in the
10 fire. So it works from the backside to the front.

11 **Q. From the back to the front?**

12 A. Um-hum.

13 **Q. So it is dragged? Is that --**

14 A. No. I clamp it.

15 **Q. You clamp it?**

16 A. Um-hum.

17 **Q. What is used to clamp it?**

18 A. The bucket.

19 **Q. So you clamp it and then so is it actually**
20 **this debris in the front before you put it in the fire**
21 **pit, is it dug into the bucket or how does it get into**
22 **the bucket?**

23 A. It is a clamp.

24 **Q. So you just claw it and you basically lift up?**

1 A. I sprinkle it out, go through it, make sure
2 there is no trash. Push it back in the pile and I
3 clamp it again and it goes in the fire.

4 **Q. During the years that you have been**
5 **maintaining that dump, at times you were the only**
6 **person that was maintaining the dump before the**
7 **part-time employee was working?**

8 A. Um-hum.

9 **Q. It was just yourself?**

10 A. Um-hum. I have had other part-timers over the
11 years.

12 **Q. And then as far as who does the actual burning**
13 **at the site?**

14 A. We do.

15 **Q. What do you use for the burning purposes of --**

16 A. Propane torch.

17 **Q. And anything else? Do you use any chemicals**
18 **that you put on?**

19 A. No.

20 **Q. And then presently are you still using the**
21 **propane torch to start the fire?**

22 A. Yeah.

23 **Q. And then as far as the fire pit is concerned,**
24 **after the fire is finished and completed, there is**

1 **ashes, remains from the fire on the grounds there at**
2 **the site, correct?**

3 A. Um-hum.

4 **Q. And then those ashes remains, they --**

5 A. They get covered with dirt.

6 **Q. You cover it with dirt?**

7 A. Um-hum.

8 **Q. How soon after the fire do you cover it with**
9 **dirt?**

10 A. Before I leave for the day.

11 **Q. So you do the burning and the fire and then**
12 **that same day you put soil on top of it?**

13 A. Um-hum.

14 **Q. As far as like is there any procedural manual**
15 **that you have with the Village of Rankin for the**
16 **handling of the fire?**

17 A. No.

18 **Q. Burning of the waste?**

19 A. No. Nothing over 4 inches.

20 **Q. So there is no manual for it?**

21 A. No.

22 **Q. Are there any Environmental Protection Agency**
23 **manuals and guidelines for the usage of burning of the**
24 **fire pit?**

1 A. Not that I am aware of.

2 Q. And then as far as the -- isn't it true that
3 there is a building that is in close proximity to the
4 fire pit where cars are stored?

5 A. That is an old barn, yeah.

6 Q. It is within 50 feet of the site, correct?

7 A. Somewhere close to that. 75 maybe.

8 Q. As a result of the burning that goes on at the
9 site, you have emissions into the air from the burning?
10 Fire, smoke? Any other emissions?

11 A. All fires smoke, don't they?

12 Q. Right. And then probably has been a
13 situation, you know, it is not, what is dumped at the
14 site there before you put it into the fire pit, that is
15 an honor system, you know, by the people, by the public
16 when they dump at the site there, correct?

17 A. Yeah. But it still gets sorted if somebody
18 don't follow.

19 Q. But it is an honor system, right?

20 A. Um-hum.

21 Q. And then there isn't somebody out there from
22 Rankin that --

23 A. No. Nobody stands guard out there, no.

24 Q. As far as have you had any communications with

1 **the EPA regarding the complaint by Mr. Polchow?**

2 A. No. Just letters I get.

3 **Q. You get letters?**

4 A. Um-hum.

5 **Q. And you are speaking of letters regarding**
6 **complaints by Mr. Polchow?**

7 A. Yeah.

8 **Q. Do you have those letters with you today?**

9 A. No.

10 MR. DREW: One minute, Your Honor.

11 HEARING OFFICER WEBB: Okay.

12 BY MR. DREW:

13 **Q. Then once the materials have been burned in**
14 **the fire pit, what do you do with those burn materials**
15 **and ashes?**

16 A. It all gets broke down and mix it up with the
17 dirt and we use it for fill dirt.

18 **Q. Do you take it to another location at times?**

19 A. At times.

20 **Q. How often do you take it to another location?**

21 A. When I get enough of it.

22 **Q. What location do you normally take it to?**

23 A. The other side of town.

24 **Q. What is the purpose of moving it from one side**

1 **of town to the other side?**

2 A. Because I have clay back there I blend with it
3 and make black dirt with it. Then it gets sorted
4 again. All the logs and stuff that are left gets
5 sorted back out and go back to the burn pit.

6 MR. DREW: Judge, do you have those pictures?

7 HEARING OFFICER WEBB: Which pictures?

8 MR. DREW: My exhibits. Just the color ones.

9 Thank you. I don't have any other questions at this
10 time. Thank you.

11 MR. MUDD: Just briefly.

12

13 REDIRECT EXAMINATION,

14 QUESTIONS BY MR. MUDD:

15 **Q. Approximately how many times a year do you do**
16 **these controlled burns?**

17 A. Not very often. Maybe two. It depends on if
18 we have a bad winter with ice storms and knock down a
19 lot of branches. We haven't burned yet this year so.

20 **Q. Do you make sure before you burn to check the**
21 **wind conditions?**

22 A. Yeah. It has to be a west wind. It blows it
23 out.

24 **Q. What is to the west?**

1 A. Towards the west.

2 **Q. Is there anything out towards the west?**

3 A. Not really.

4 **Q. Farms? Cornfields?**

5 A. Um-hum.

6 MR. MUDD: No further questions.

7

8 RECROSS-EXAMINATION,

9 QUESTIONS BY MR. DREW:

10 **Q. Mr. McAllister, is it true sometimes you will**
11 **get swirling winds in the area, correct?**

12 A. I mean, winds change.

13 **Q. Right. And so when those winds change, that**
14 **could cause the smoke from the fire to blow in opposite**
15 **directions towards residents of the community, correct?**

16 A. It could, but when I start out, I look at what
17 the wind is supposed to be that day. And I got flags
18 out there showing me which way it is blowing.

19 MR. DREW: Thank you.

20 MR. MUDD: Nothing else.

21 HEARING OFFICER WEBB: Thank you, Mr.
22 McAllister.

23 MR. MUDD: We have one more witness.

24 HEARING OFFICER WEBB: Please swear in the

1 witness.

2 AARON WARREN,
3 the witness herein, having been first duly sworn to
4 tell the truth, the whole truth and nothing but the
5 truth, was examined and testified as follows:

6
7 DIRECT EXAMINATION,

8 QUESTIONS BY MR. MUDD:

9 **Q. Can you state your name?**

10 A. Aaron Warren. W-a-r-r-e-n.

11 **Q. Mr. Warren, how are you employed?**

12 A. I am the Village president.

13 **Q. Village of --**

14 A. Village of Rankin.

15 **Q. How long have you served in that capacity?**

16 A. Three terms.

17 **Q. Those are four year terms?**

18 A. Yes.

19 **Q. Have you been involved in the municipality or**
20 **in municipal operations prior to taking office of**
21 **mayor?**

22 A. Not prior to.

23 **Q. During that time that you have served on**
24 **there, the Village maintains a waste -- or excuse me, a**

1 **landscape disposal area?**

2 A. Correct.

3 **Q. Now through your three terms as mayor, have**
4 **you had to fence that?**

5 A. Yeah. We fenced it.

6 **Q. Is that locked?**

7 A. Yes, it is.

8 **Q. And is there signage at both entrances saying**
9 **no dumping and yard waste only?**

10 A. Yes.

11 **Q. Have you received any correspondence from the**
12 **Illinois Environmental Protection Agency?**

13 A. Multiple.

14 **Q. Have they done investigations?**

15 A. Yes. Site investigations. They have done
16 sample testing.

17 **Q. Now have you ever been told that your yard**
18 **waste disposal site is not in compliance?**

19 A. No.

20 **Q. They found you compliant every time?**

21 A. Um-hum.

22 **Q. You have had contact with Mr. Polchow before?**

23 A. Multiple.

24 **Q. And do you think that the complaint that he**

1 **filed in this case is necessitated by some other thing**
2 **that Mr. Polchow wants?**

3 A. Yeah.

4 **Q. What would that be?**

5 A. I believe he thinks he owns all of that
6 property that runs right through town which is the old
7 railroad property.

8 **Q. He has petitioned to the Village Board on a**
9 **number of occasions prior to this complaint asking for**
10 **a nature walk?**

11 A. Correct.

12 **Q. And that landscape disposal --**

13 A. Yes.

14 **Q. That landscape disposal site obstructs that**
15 **nature walk that he wants?**

16 A. Correct. Yes.

17 MR. MUDD: No further questions.

18

19 CROSS-EXAMINATION,

20 QUESTIONS BY MR. DREW:

21 **Q. Mr. Warren, so you are the president of**
22 **Rankin?**

23 A. Correct.

24 **Q. And then who is the -- do you have a Public**

1 **Works superintendent?**

2 A. Sean McAllister.

3 **Q. And are there any written manuals for**
4 **operations of the fire pit?**

5 A. No. We don't have any written manuals.

6 **Q. Do you have any -- as far as Mr. Sean**
7 **McAllister goes, what is his background as far as you**
8 **know being the superintendent of Public Works?**

9 A. He has been doing it for roughly about 15
10 years I want to say.

11 **Q. Do you know, does he have any licenses that he**
12 **holds for superintendent of Public Works?**

13 A. No. There is no license that we issue or we
14 are required to do.

15 **Q. And then do you have training with the -- of**
16 **Mr. McAllister and the other employees?**

17 A. Yes.

18 **Q. Who?**

19 A. That would be me.

20 **Q. You do the training?**

21 A. Yes. This is basically this is what we do.
22 They have to sort through the piles. It is never
23 unlocked and they are the only ones that can push the
24 piles into the fence.

1 So we go through the stuff so we, you know,
2 nobody is dumping shingles. We pride ourselves on
3 that. We are a lot better than the other
4 municipalities around just for that reason.

5 **Q. And there hasn't always been a fence around**
6 **the fire pit at that location?**

7 A. No. It is to keep people out.

8 **Q. And do you know the exact date that that fence**
9 **was constructed?**

10 A. I want to say probably it was before my time I
11 believe as Village president. So that would have been
12 18 years roughly.

13 **Q. So the fence has been there for 16 years?**

14 A. Been there for a while, long time.

15 **Q. And as far as like the sign where it states**
16 **that, you know, yard waste only?**

17 A. We have had multiple signs over the years.
18 They get run over.

19 **Q. Sometimes the signs get taken down by**
20 **trespassers, that kind of thing?**

21 A. No. I don't know if -- well, maybe. But
22 yeah, it has been there. Sometimes they will get run
23 over. Maybe sometimes they will get weathered, fall
24 off. Whatever the case.

1 **Q. Do you recall when the formal complaint was**
2 **filed by Mr. Polchow against the Village of Rankin?**

3 A. We have had so many complaints from Mr.
4 Polchow. Can you point to one?

5 **Q. I am speaking about the complaint before the**
6 **Court regarding the site, you know, the waste site.**

7 A. Before the Environmental Protection or the
8 court up north?

9 **Q. I will show you here, this is the complaint he**
10 **filed.**

11 A. Yeah.

12 **Q. Regarding --**

13 A. Am I aware of this complaint?

14 **Q. Yes.**

15 A. Yes.

16 **Q. And in fact the allegations are that the**
17 **Village of Rankin was wrongfully burning, you know,**
18 **plastics at the, in the fire pit and other aerosol**
19 **cans, you know, various other objects that were, you**
20 **know, not yard waste.**

21 A. That is his side of the story, his complaint.

22 **Q. Did you review this complaint with your legal**
23 **counsel?**

24 A. My legal counsel with me.

1 **Q. Did you ever personally speak about this**
2 **complaint with Mr. Polchow? You personally?**

3 A. Multiple times.

4 **Q. What did you tell him when you spoke with him**
5 **about his complaint? What was your reply to the**
6 **complaint?**

7 A. How do you defend something that is not going
8 on. So there is really nothing -- I can't respond to
9 that. So I give it to the attorney.

10 **Q. No response? You just gave it to the**
11 **attorney?**

12 A. Yeah.

13 **Q. And then he has also brought the matters up at**
14 **the board meetings, correct?**

15 A. Multiple matters, multiple board meetings over
16 the years. Pretty much every first Thursday of every
17 month.

18 **Q. Did you ever give him the opportunity to speak**
19 **out?**

20 A. He gets -- everybody gets their 5 minutes at
21 the beginning of every board meeting. Anybody can come
22 in and state whatever they want to say, address the
23 board.

24 **Q. As far as have you actually been out at the**

1 **fire pit site?**

2 A. Yep. Two blocks from it. That is where I
3 live.

4 **Q. And then obviously you are within two blocks**
5 **of this fire pit site. And when a fire is ignited and**
6 **it is, you know, basically, you know, in action, the**
7 **fire is taking place, sometimes you get smoke that does**
8 **blow into the air towards the residential community?**

9 A. No. The only time we try to burn is maybe
10 two, maybe three times a year. It is not like every
11 other weekend or anything. So it is a rare event we
12 do.

13 And we do try to check the weather, make sure
14 the weather is blowing outside of the town. It is on
15 the west side of town. As long as the wind is blowing
16 correctly, we should be good to go. And it is
17 monitored.

18 MR. DREW: One moment please.

19 (Discussion held off the record.)

20 BY MR. DREW:

21 **Q. So as far as like this nature preserve, there**
22 **is actually wooded areas that are located, you know, it**
23 **would be west of the fire pit, correct?**

24 A. Um-hum. It is along the railroad tracks,

1 yeah. Where the old tracks were, correct.

2 **Q. And so you wouldn't be against a nature walk**
3 **as the president for the community if the community**
4 **could have a nature walk for the public?**

5 A. I don't have any problem with a nature walk.
6 The Village owns that burn site. And to go outside of
7 town, we don't own what is outside of the Village
8 limits.

9 **Q. And then so it is a wooded area. And then**
10 **when the fire takes place, the burning takes place,**
11 **obviously, you know, the contaminants, that would go**
12 **into the air. That would affect the wildlife in the**
13 **area, correct?**

14 A. No. I am not -- you are assuming that the
15 smoke is going completely sideways and not up into the
16 air.

17 **Q. But there is wildlife in the area, correct?**

18 A. I am not aware of any wildlife.

19 **Q. And there is also like a creek, some waterways**
20 **that are near the fire pit site?**

21 A. It is not directly near the fire pit. You are
22 talking about there is a creek, but it is not located
23 directly near the fire pit, no.

24 **Q. And after the burning of all of the debris**

1 **that is in the fire pit, that debris remains in the**
2 **fire pit fenced-in area?**

3 A. Correct. Just smashed.

4 **Q. And the fence itself is fencing and so the**
5 **wind can blow through it is like a chain link type**
6 **fence?**

7 A. Um-hum.

8 **Q. And so the wind and the rain would be able to**
9 **wash some of the debris outside of the fencing area,**
10 **correct?**

11 A. I am assuming if there was a torrential
12 downpour, sure. It is like ash, wood. There is no 2
13 by 4's allowed to be burnt in there. There is no
14 construction material. It is all sticks and leaves.
15 Nothing that would be --

16 **Q. You spoke of these EPA letters that you**
17 **received. Do you have those?**

18 A. Most of them were all phone calls. They all
19 have me on speed dial. I get phone calls all the time
20 from different representatives from the EPO over the
21 years.

22 So I mean, they have contacted me, wanted to
23 come out. Wanted to know where the burn pile was, do
24 an inspection, do a survey.

1 **Q. And as far as like environmental concerns in**
2 **the community, do you have any person that handles like**
3 **complaints regarding environmental --**

4 A. We are a small town of 500 counting cats and
5 dogs so everything comes to me. The only time we have
6 had any issues of any complaints with any environmental
7 issues have been Mr. Polchow. And there is people that
8 live even closer to this thing and I haven't --

9 **Q. But as president, you do take environmental**
10 **concerns --**

11 A. Absolutely. That is one of the reasons why it
12 is gated off, fenced off. They have to line all the
13 stuff up. The guys have to go through it before
14 anything gets pushed into the fence and burnt. So we
15 don't have the issues of residents burning, putting
16 shingles in there. Because, trust me, if they could,
17 they would.

18 **Q. I am sure you have heard a lot since you have**
19 **been president over the years, correct?**

20 A. Yeah.

21 MR. DREW: All right, Judge. I have nothing
22 further at this time. Thank you.

23

24

1 REDIRECT EXAMINATION,

2 QUESTIONS BY MR. MUDD:

3 **Q. Mr. Warren, are you aware of the Village**
4 **intentionally burning garbage at that site?**

5 A. No.

6 **Q. Anything besides what is landscape material**
7 **burned at that site?**

8 A. That is correct.

9 **Q. Now if you had to close this site, do you run**
10 **the risk of having residents taking --**

11 A. They would burning at their own properties,
12 absolutely.

13 **Q. Is that a safety concern?**

14 A. Yes.

15 MR. MUDD: No further questions.

16 HEARING OFFICER WEBB: Any followup?

17

18 RECROSS-EXAMINATION,

19 QUESTIONS BY MR. DREW:

20 **Q. Besides your job as president of the Village**
21 **of Rankin, do you have another job?**

22 A. I am the maintenance director of Environmental
23 Services. Director for Accolade Health Care.

24 **Q. Where is that located?**

1 A. Paxton.

2 **Q. What hours do you work there?**

3 A. 8 to 4:30 Monday through Friday. Unless I get
4 called on the weekends.

5 **Q. That is your full-time job?**

6 A. Yes.

7 **Q. Takes your full attention during those hours?**

8 A. No. My cell phone is always on so they have
9 always got contact. My employer allows me to serve,
10 well, like I'm here today. So if I need to take care
11 of Village issues, that is one of the things for
12 employment.

13 **Q. And obviously Paxton is, you can't view the**
14 **fire pit from Paxton, right?**

15 A. Am I physically over the fire pit 24/7? No.

16 **Q. And, again, you can't view it from Paxton?**

17 A. Nope.

18 **Q. Over the years have you ever had any calls,**
19 **emergency calls, from Mr. McAllister regarding the fire**
20 **pit?**

21 A. Not regarding the fire pit. Many other sewer
22 issues, water tower, things like that.

23 MR. DREW: Thank you very much.

24 HEARING OFFICER WEBB: Any followup?

1 MR. MUDD: No, ma'am.

2 HEARING OFFICER WEBB: Thank you, Mr. Warren.
3 Mr. Mudd, anything further you would like to present?

4 MR. MUDD: Nothing other than the exhibits
5 that have already been entered.

6 HEARING OFFICER WEBB: Let's go off the record
7 to discuss a briefing schedule.

8 (Discussion held off the record.)

9 HEARING OFFICER WEBB: Let's go back on the
10 record. This transcript is due by May 8 and will be
11 posted on the Board's website.

12 The public comment deadline is May 15.
13 Public comment must be filed in accordance with Section
14 101.628 of the Board's procedural rules.

15 The Complainant's brief is due by June 18 and
16 the Respondent's brief is due by July 18. Mr. Drew,
17 would you like to make any closing argument?

18 MR. DREW: With the brief, I can --

19 HEARING OFFICER WEBB: You want to reserve --

20 MR. DREW: Yes.

21 HEARING OFFICER WEBB: Mr. Mudd, would you
22 like to make any closing arguments?

23 MR. MUDD: No.

24 HEARING OFFICER WEBB: At this time I will

1 conclude the proceedings. We stand adjourned and I
2 thank everyone for their participation.

3 (The hearing concluded at 12:00 p.m.)
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REPORTER'S CERTIFICATION

I hereby certify that the foregoing is a true and accurate transcript of the Pollution Control Board Hearing taken on May 1, 2018, stenographically recorded by me and reduced to typewriting at my direction.

Becky L. Jessup, CSR

May 1, 2018

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