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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION

AGENCY,

Petitioner,

vs.

PCB No. AC 00-072

CARL WHITE (HARMONY/CARL

WHITE),

Respondent.

Proceedings held on July 25, 2000, at 9:40 a.m., at the
Jefferson County Courthouse, Mt. Vernon, Illinois, before the
Honorable Steven C. Langhoff, Hearing Officer.

Reported by: Darlene M. Niemeyer, CSR, RPR
CSR License No.: 084-003677

KEEFE REPORTING COMPANY
11 North 44th Street
Belleville, IL 62226
(618) 277-0190

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A P P E A R A N C E S

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: Robert J. Scherschligt
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
On behalf of the Illinois EPA.

No appearance on behalf of Respondent.

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I N D E X

WITNESS	PAGE NUMBER
GARY L. STEELE	7

E X H I B I T S

NUMBER	MARKED FOR I.D.	ENTERED
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(People's Exhibit Numbers 1 through 9 were retained by Hearing Officer Langhoff.)

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1 P R O C E E D I N G S

2 (July 25, 2000; 9:40 a.m.)

3 HEARING OFFICER LANGHOFF: Good morning. My name is Steven
4 Langhoff. I am the Hearing Officer assigned to this case. I
5 will note for the record that it is Tuesday, July 25th, 2000, at
6 approximately 9:40 a.m. I also note that there are no members of
7 the public present at this time.

8 The case before us today is administrative citation 00-72,
9 Illinois Environmental Protection Agency versus Carl White. The
10 administrative citation filed by the Agency alleges that during
11 an inspection of January 14th, 2000, it was determined that Carl
12 White caused or allowed open dumping to result in litter
13 allegedly in violation of the Environmental Protection Act. As a
14 result of the January 20th, 2000 inspection, an administrative
15 citation was filed. Mr. White filed a petition for review
16 disputing the violations, and we are conducting this hearing
17 today as a result.

18 Before we begin with the hearing, for those of you who may
19 not be familiar with the Board's procedures, I would like to
20 briefly explain this process. First of all, you should know that
21 it is the Board, and not me, that will render a final decision in
22 this case. My job as a Hearing Officer requires that I conduct
23 this hearing in a fair and orderly manner, and that we have a
24 clear record of these proceedings for the Board to review in

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1 making their decision. It is also my responsibility to assess
2 the credibility of any witnesses testifying today, and I will do
3 so on the record at the conclusion of these proceedings.

4 At times I may ask for clarification for the record or ask
5 questions which I believe are necessary for the Board to fully
6 understand what is being said today. The Board's procedural
7 rules allow the members of the public to give testimony or be
8 allowed to make statements on the record. If any person wishes
9 to do so today, we will call for those statements at the
10 conclusion of the proceedings. As I said before, there are no
11 members of the public present at this time.

12 Finally, I would caution everyone that a Board hearing is
13 very much like being in court, and I would expect everyone to act
14 appropriately and with proper decorum.

15 At this time I will ask the parties to make their
16 appearances for the record.

17 MR. SCHERSCHLIGT: Robert Scherschligt, Assistant Counsel
18 with the Illinois Environmental Protection Agency.

19 HEARING OFFICER LANGHOFF: I will note for the record that
20 the respondent, Mr. Carl White, is not present today.

21 Do we have any preliminary matters to discuss, Mr.
22 Scherschligt?

23 MR. SCHERSCHLIGT: Mr. Hearing Officer, I would like to
24 make one point of clarification. I believe you referred to the

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1 inspection that is the basis for this administrative citation as
2 being January 20th. I would like to note that the inspection
3 report that gave rise to the administrative citation is dated
4 January 14th of 2000.

5 HEARING OFFICER LANGHOFF: Okay. I will note that for the
6 record. Thank you.

7 Do you wish to make an opening statement?

8 MR. SCHERSCHLIGT: Yes, please, just very briefly. Mr.
9 Hearing Officer, members of the Illinois Pollution Control Board,
10 again, my name is Robert Scherschligt. I am an Assistant Counsel
11 with the Illinois Environmental Protection Agency. I represent
12 the Agency in this administrative citation that we are here on
13 today, the Illinois EPA versus Carl White, IEPA number 06900-AC.

14 The Agency will be calling only one witness this morning.
15 His name is Gary Steele. He is the manager, the regional manager
16 of the Marion regional offices, field operations section, for the
17 bureau of land. Mr. Steele will testify that he has been
18 acquainted with this particular facility since on or about
19 February 2nd of 1995. He will testify as to the extensive
20 history and his involvement with this facility which ultimately
21 gave rise to an administrative citation that we are here on
22 today. The basis for that administrative citation is a January
23 14th, 2000 inspection conducted by Mr. Steele.

24 We will provide sufficient evidence at hearing today to

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1 prove, by a preponderance of the evidence, that the respondent,
2 Mr. White, on or about January 14th, operated his facility in a
3 manner which caused or allowed the open dumping of waste
4 resulting in litter, in violation of Section 21.p1 of the
5 Illinois Environmental Protection Act.

6 At the close of the hearing today the Agency will be asking
7 the Board to enter a finding that the respondent has violated the
8 Environmental Protection Act as alleged, and we will be further
9 asking the Board to order the respondent to pay the prescribed
10 penalty of \$1,500.00. Thank you very much.

11 HEARING OFFICER LANGHOFF: All right. Please call your
12 first witness.

13 MR. SCHERSCHLIGT: The People call Gary Steele.

14 (Whereupon the witness was sworn by the Notary Public.)

15 G A R Y S T E E L E,
16 having been first duly sworn by the Notary Public, saith as
17 follows:

18 DIRECT EXAMINATION

19 BY MR. SCHERSCHLIGT:

20 Q. Good morning, Mr. Steele.

21 A. Good morning.

22 Q. Please state your name for the record.

23 A. Gary E. Steele.

24 Q. Okay. How are you employed, Mr. Steele?

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1 A. I am the regional manager for the field operations
2 section of the bureau of land of the Illinois Environmental
3 Protection Agency.

4 Q. And how long have you been employed in that capacity?

5 A. I have been in the supervisory capacity at the Marion
6 field office since 1991.

7 Q. Prior to that, what was your title with the Illinois
8 EPA?

9 A. I have been a field inspector in Marion since July of
10 1984. Prior to that I was a field inspector in the Springfield
11 regional office starting in November of 1978.

12 Q. Describe for us the general nature of your duties and
13 responsibilities as manager of the Marion regional offices, field
14 operation section?

15 A. I supervise the five other professionals that are in the
16 office of inspectors, talk to people who come in, talk to people
17 making complaints, review all of the inspection reports that are
18 generated by my staff. I also review permits and applications
19 that come through, again, with my staff who I assign to them. I
20 also do the work assignments. Then I also continue doing
21 inspections of my own to maintain my abilities as an inspector
22 and in the process.

23 Q. I would like to focus on your review of inspection
24 reports. What types of reports do you review in your capacity as

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1 manager?

2 A. I review solid waste investigations of both permitted
3 and unpermitted facilities, inspections of hazardous waste sites,
4 both generators and storage sites and the treatment facilities we
5 have. I review permit application comments made by my staff or
6 myself. Permits that are generated by the people that I work
7 for, I will review that prior to sending it to Springfield for
8 entering in the official Agency record.

9 Q. In your approximate nine years in the supervisory
10 capacity, give us your best estimate as to the number of
11 inspection reports that you have had occasion to review?

12 A. The review is probably going to be approximately 1,000
13 in the nine year time period with all of the employees I have
14 working with me.

15 Q. In addition to reviewing your subordinates' reports, you
16 also have occasion to conduct various inspections of your own;
17 isn't that correct?

18 A. Yes. I maintain an inspection schedule for myself.

19 Q. And then you prepare a report as well?

20 A. Yes, I do.

21 Q. Okay. Approximately how many open dump inspections have
22 you participated in since being employed with the Illinois EPA?

23 A. I have actually written probably over 600 myself and
24 probably participated in another 200.

9

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1 Q. Describe for us your educational background?

2 A. I have a bachelor of science degree from Purdue
3 University in conservation as well as attending numerous training
4 courses through my employment with the Agency.

5 Q. That was going to be my next question. As far as
6 training, just give us a general overview of the training that
7 you have participated in or received since you have been employed
8 with the Illinois EPA as it pertains to solid waste and RCRA
9 inspections, if you would?

10 A. Okay. I have attended U.S. EPA training courses and
11 solid waste and hazardous waste investigation and regulatory
12 interpretation as new standards are adopted. I have attended the
13 Illinois State Police Academy course for IEPA inspectors. I have
14 also attended the federal law enforcement training academy class
15 for hazardous waste investigations. Plus I attend annual
16 conferences for the Illinois Solid Waste Management Association,
17 which offers training segments.

18 Q. Are you familiar with the provisions of the Illinois
19 Environmental Protection Act and the associated regulations that
20 pertain and cover open dumps and hazardous waste facilities?

21 A. Yes, I am.

22 Q. Okay. Are you familiar with a facility commonly known
23 to the Illinois Environmental Protection Agency as Harmony,
24 slash, Carl White?

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1 A. Yes, I am.

2 Q. How are you familiar with that facility?

3 A. I have inspected that facility on several occasions.
4 The first initial visit was in 1995, and then several subsequent
5 visits during 1999 up until the January 14th, 2000, visit that we
6 are here to talk about.

7 Q. I would like to begin with our historical background of
8 this facility as of the date of your second inspection at the
9 facility. I believe that was February 19th of 1999; is that
10 correct?

11 A. Yes, it is.

12 Q. Okay. Do you recall what prompted your inspection on
13 that particular date, February 19th of 1999?

14 A. I had received a complaint about the site and the
15 operation.

16 Q. Is it customary that when you receive a complaint from a
17 member of the public that it is customary for you to visit the
18 facility and perform an inspection?

19 A. Yes, we routinely do complaint investigations based on
20 those that we receive.

21 Q. Then is it customary for you, based upon your

22 observations, to then prepare a report?

23 A. Yes, that's our standard procedure.

24 Q. Does that report typically include statements that you

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1 have received from persons present at the site in addition to
2 documentation of your personal observations?

3 A. Yes. I would include any pertinent conversations that
4 we have plus describe the materials involved. Additionally, we
5 would take photographs of those conditions. And then also
6 actually draw up a site sketch to sort of show the arrangement of
7 the materials at the site.

8 Q. The report is based upon your personal firsthand
9 observations?

10 A. Yes, it is.

11 Q. Does the report typically contain some sort of
12 checklist?

13 A. Yes, we have an inspection checklist that we use.

14 Q. Does it contain a narrative section?

15 A. Yes.

16 Q. Does it contain a site sketch?

17 A. Yes.

18 Q. Does it typically contain photographs?

19 A. Yes.

20 Q. Are the photographs typically taken by the individual

21 who prepares the report?

22 A. Yes.

23 Q. Is the report typically prepared at a time when it is
24 fresh in your memory?

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1 A. Yes, it is.

2 Q. It is prepared contemporaneous or in close proximity to
3 the time that you perform the inspection?

4 A. Yes.

5 Q. Do you have an obligation or a duty as an employee of
6 the Illinois EPA to prepare such reports?

7 A. Yes, that is in my job objectives.

8 Q. And it is prepared in the regular course of business?

9 A. Yes, it is.

10 Q. Is it fair to say that your reports are properly
11 characterized as factual or diagnostic?

12 A. Yes, they are.

13 Q. Do they contain opinions based upon your personal
14 observations?

15 A. I try to make sure that they don't.

16 Q. But it would be based upon your firsthand knowledge and
17 what you see at the facility, correct?

18 A. Yes. What might be considered opinion is the site looks
19 worse or the site looks better. Then I would explain using the
20 facts present to support that when comparing back to a previous

21 visit.

22 Q. So it is fair to say you try to base your reports on
23 factual observations and try to keep maybe personal feelings
24 aside?

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1 A. Yes.

2 MR. SCHERSCHLIGT: Permission to approach the witness.

3 HEARING OFFICER LANGHOFF: Please.

4 (Whereupon said document was duly marked for purposes of
5 identification as People's Exhibit 1 as of this date.)

6 Q. (By Mr. Scherschligt) I hand to you what I have
7 previously marked as People's Exhibit Number 1. And I would ask
8 you, do you recognize that?

9 A. Yes, I do.

10 Q. Please tell us what that is?

11 A. This is the inspection report that I completed as a
12 result of my February 19th, 1999, visit to Mr. White's property.

13 Q. That would have been your second visit to this
14 particular site?

15 A. Yes, it would.

16 Q. Take a few seconds or moments and leaf through that
17 report and tell us if that is a complete and accurate copy of
18 your February 19, 1999, inspection report?

19 A. Yes, it is.

20 Q. I would like to first direct your attention to the
21 inspection checklist. Did you have occasion to cite Mr. White
22 for causing or allowing open dumping, a violation of 21.a?

23 A. Yes, I did.

24 Q. In addition to that and in addition to other violations

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1 that you noted, did you also cite Mr. White for a violation of
2 section 21.p1?

3 A. Yes, I did.

4 Q. That would be causing or allowing open dumping resulting
5 in litter?

6 A. Yes.

7 Q. I would now like to direct your attention to the
8 narrative portion of the report.

9 A. Okay.

10 Q. You have testified that this particular inspection was
11 based upon a complaint that you had received regarding the
12 facility; is that correct?

13 A. Yes, it was.

14 Q. When you arrived at the site, did you notice a mailbox
15 or any other identifying property description?

16 A. Yes, I noticed that when I approached that the mailbox
17 had the name White and Rural Route 1 painted on it.

18 Q. Did you happen to speak with Mr. White on that
19 particular date?

20 A. Yes. We went ahead and drove on to the site. There
21 were several dogs, I believe seven that were there, and only one
22 of them restrained. The rest of them were sort of congregating
23 around our car barking at us.

24 Q. That makes it sort of difficult for you to do your

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1 inspection, doesn't it?

2 A. Yes. I sort of like to stay in the car when there is
3 that many dogs out there. They made enough noise that a man came
4 out of the mobile home on the facility, and he identified himself
5 as Carl White.

6 Q. Did this mobile home appear to be a residence?

7 A. Yes, it did.

8 Q. Did Mr. White indicate to you whether or not he was the
9 owner of the property or what his relationship to the property
10 was?

11 A. He said that he was buying it contract for deed from Mr.
12 Larry Isom (spelled phonetically), and he had been on the site
13 for about two and a half to three years.

14 Q. He had been living at the site for approximately two and
15 a half to three years?

16 A. That's what he told me.

17 Q. Did you notice any waste materials at the site?

18 A. We noticed several waste materials.

19 Q. Generally describe what types of waste materials that
20 you observed on that date?

21 A. There were several abandoned vehicles or what appeared
22 to be abandoned vehicles, metal waste, iron pipe, household
23 garbage. There was an International dump truck that had been
24 sort of backed up to a depression that had cattails and other wet

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1 site plants growing out of it, so it had the impression that it
2 was a marshy area, and that it actually had been backed up and
3 the wheels were sunk down in the mud. It was full of household
4 garbage. There was a pickup truck parked next to the trailer
5 that was -- the bed was full to overflowing. Both that and the
6 dump truck were filled to overflowing with household garbage.
7 There were --

8 Q. What was your understanding with respect to the source
9 of that household garbage?

10 A. Mr. White said the garbage was his.

11 Q. He generated the household garbage?

12 A. That he didn't have garbage pick up. He said a company
13 had come out once and said it was too wet and never came back.

14 Q. What about used or waste tires? Did you see any of
15 those?

16 A. There were two piles of tires that we observed there.

17 Q. Approximately how many tires?

18 A. Approximately 300 is what I estimated it at.

19 Q. Did he make a statement with respect to the ownership of
20 all of these waste materials?

21 A. Again, he said the garbage was his.

22 Q. Was he referring to all of the material at the site or
23 was he specifically referring to the household waste?

24 A. Well, with the statements he later made about wanting to

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1 keep all of the cars and do some things with the other materials,
2 I was led to believe that he was referring to all of the
3 materials.

4 Q. We will get to all of that. For the purposes of this
5 particular inspection, did he make a statement with respect to
6 the large number of cars that were present at the site and what
7 the purposes for those cars was?

8 A. He said that he wanted to keep all of the cars to obtain
9 parts for the four that he identified as running. He then named
10 off to me the cars that he said were running, one being the
11 International dump truck that was in this apparent marshy area
12 that was full of garbage, and the other one being the blue pickup
13 truck that was sitting next to the house that was full of
14 garbage. He identified a red van that was sitting up on blocks
15 and was missing at least one wheel, and then one other car, a
16 Capri. There was a car in the driveway. I believe it was --

17 Q. If you don't know independently, just tell me and

18 perhaps you could use your report to refresh your recollection.

19 A. I don't remember the make.

20 Q. Okay.

21 A. But only one car had current plates and registration on
22 it of all of the numerous cars that were out there.

23 Q. So it was your understanding or your impression that all
24 of the waste materials at the site belonged to him or that he had

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1 at least assumed control over those materials?

2 A. Yes.

3 Q. Okay. Did he make any statements with respect to his
4 trash pick up or -- I guess what I am asking is did he make any
5 statements about whether he had any trash pick up service?

6 A. Well, he said that he didn't. Again, going back to he
7 said that the trash hauler came out there once and said it was
8 too wet and never came back, so he had never arranged for anyone
9 else to pick up his regular trash.

10 Q. Based upon those observations that you have just
11 testified to, did you then cite Mr. White for various violations
12 of the Environmental Protection Act and the associated
13 regulations?

14 A. Yes, I did.

15 Q. Did you cite him for Section 21.a, open dumping?

16 A. That was one of the violations that he was charged with,
17 yes.

18 Q. Did you cite him for Section 21.p1, open dumping
19 resulting in litter?

20 A. Yes, that was one of the violations that I cited on that
21 report.

22 Q. Did you take photographs on this particular visit?

23 A. Yes, I did.

24 Q. Do those photographs depict the waste materials that you

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1 have testified to this morning?

2 A. Yes, they do.

3 Q. And do those photographs fairly and accurately depict
4 the site conditions as you observed them on February the 19th of
5 1999?

6 A. Yes, they do.

7 Q. Okay. After you perform inspections, such as the
8 February 19th inspection, is it customary for the Illinois EPA to
9 provide some sort of notice or correspondence to the facility
10 owner?

11 A. Yes, that is our standard practice, to notify
12 responsible parties of anything that we find.

13 Q. Do you normally provide them with a copy of the report
14 if they ask for it?

15 A. We normally provide them with a copy of the report as a
16 course of business. We send them a letter and we attach the

17 report so that they know what we are talking about.

18 Q. Did you on this particular occasion provide Mr. White
19 with any sort of written correspondence subsequent to your
20 February 19th inspection?

21 A. Yes, we sent him a letter, what is called an
22 administrative warning notice.

23 Q. What is an administrative warning notice?

24 A. It is a letter which states that there were conditions

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1 that need immediate attention that provides the legal
2 definitions, you know, what sections of the Act authorizes us to
3 be at the site and what sections of the Act give us our
4 authority. And it also includes a list of corrective actions
5 that they need to take to correct the problem, and then also has
6 language stating that if you fail to take this that there are
7 possible civil penalties that could be evoked against them.

8 Q. The idea here being that you are willing to work with
9 the facility owner or operator to help them achieve compliance?

10 A. Yes. It sets out a schedule, but it also asks them to
11 send us back a letter where they commit to that schedule or come
12 up with their own. It basically gives them a chance to clean it
13 up.

14 (Whereupon said document was duly marked for purposes of
15 identification as People's Exhibit 2 as of this date.)

16 Q. (By Mr. Scherschligt) I hand you what I have previously

17 marked as People's Exhibit Number 2, and I would ask if you
18 recognize that?

19 A. Yes, I do.

20 Q. What is that?

21 A. This is the administrative warning notice that we sent
22 to Mr. White.

23 Q. Is that a complete and accurate copy of the
24 administrative warning notice, to the best of your knowledge?

21

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1 A. Of the letter portion. Again, as I said, we would also
2 send a copy of the report with this letter.

3 Q. I understand.

4 A. So that would make the -- this was the whole letter and
5 then the inspection report would complete the package that we
6 would mail to Mr. White.

7 Q. Take a look at the last page of that correspondence. Do
8 you see your signature anywhere on there?

9 A. Yes, I do.

10 Q. Do you typically sign these letters that come out of
11 your regional office?

12 A. Yes, I do. As a regional manager, that is one of my
13 duties.

14 Q. What is the date on that letter?

15 A. March 4th of 1999.

16 Q. I believe you have already testified that one of the
17 purposes of this warning notice is to inform the facility owner
18 or operator of your findings of your previous inspection, and in
19 this case it was February 19th?

20 A. Yes.

21 Q. I believe you have also testified that it does indicate
22 what sort of corrective actions that you expect the facility
23 owner or operator to take to bring the site into compliance?

24 A. Yes, it does.

22

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1 Q. Does it typically give a compliance deadline for doing
2 those corrective actions?

3 A. Yes, it does.

4 Q. In this particular case, what was the compliance
5 deadline that you gave Mr. White?

6 A. We gave him until April the 19th, 1999, to complete the
7 clean up with a May 3rd, 1999, deadline of submitting to us
8 copies of the receipts from either the salvage yard or disposal
9 facility that he would use to document that it went to an
10 approved location.

11 Q. And the purpose of the receipt is to evidence proper
12 disposal as opposed to improper disposal of those materials?

13 A. Yes. We include that so that we know that it is going
14 to a permitted facility and not going to another illegal site.

15 Q. Do these warning notices typically notify the owner or

16 operator that a reinspection will ensue to verify compliance?

17 A. Yes, they do.

18 Q. Does it also warn of the possible issuance of an
19 administrative citation?

20 A. Yes, they do.

21 Q. I would now like to direct your attention to May 25th of
22 1999. Do you recall conducting an inspection of Mr. White's
23 facility on that date?

24 A. Yes, I did a reinspection of the site on that date.

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1 Q. And that was as a follow-up to the administrative
2 citation warning that we have just talked about?

3 A. Yes, because that was after all of his compliance dates
4 had been exceeded.

5 Q. So you gave him an opportunity to comply and then you
6 went out to check and see if he had complied?

7 A. Yes, we did.

8 Q. Had he complied?

9 A. No, he had not.

10 Q. Did you complete a report based upon your May 25th, 1999
11 inspection?

12 A. Yes, I did.

13 (Whereupon said document was duly marked for purposes of
14 identification as People's Exhibit 3 as of this date.)

15 Q. (By Mr. Scherschligt) I hand you what I have previously
16 marked as People's Exhibit Number 3. Do you recognize that?

17 A. Yes, I do.

18 Q. Please tell us what that is?

19 A. This is the inspection report I completed as a result of
20 my May 25th, 1999 site visit.

21 Q. Have you taken an opportunity to leaf through it and
22 determine whether it is a complete and accurate copy of the
23 report that you prepared?

24 A. Yes, it is a complete copy.

24

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1 Q. Again, this report includes an inspection or a violation
2 checklist, a narrative section, a site sketch and also
3 accompanying photographs?

4 A. Yes, it does.

5 Q. Did you speak with Mr. White on that date?

6 A. No, I did not. He was not there. I spoke to a woman
7 who identified herself as Rita Kay White, his wife.

8 Q. Did you observe whether any new waste material had been
9 brought to the site?

10 A. I observed that material had been moved around and
11 consolidated, and that a couple of the trailers that had -- the
12 mobile homes that had been there before had been reduced to just
13 their frames and some, you know, a slight amount of rubble on the
14 frames. Mrs. White said that her husband and brother-in-law had

15 dismantled the trailers for the scrap metal to work on cleaning
16 up the site.

17 The other new thing that I observed was there was a
18 roll-off box that all of the garbage had been placed into. It
19 had been taken out of the two trucks and placed into that along
20 with some other materials that had been at the site.

21 Q. So it is fair to say that there had been some
22 improvement to the site's conditions?

23 A. Yes, some clean up work had been done.

24 Q. But was there still a substantial amount of work left to

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1 be done?

2 A. Yes. At that time Mrs. White said they really hadn't
3 hauled anything off yet. That they had just worked on trying to
4 consolidate things to make it easier for companies to haul off.
5 They had the roll-off box on site, but it had not been hauled off
6 yet. She said they had spoken to someone about hauling off the
7 waste metal, but that they were closed until June 15th so that
8 they really couldn't do any of that yet. But she said they were
9 working on consolidating things. They were, you know, putting
10 the cars in two specific areas.

11 Q. Based upon your experience as an inspector for the
12 Illinois Environmental Protection Agency, can you tell us is
13 there a market for scrap metal of the sort that you observed at

14 this particular site?

15 A. Yes.

16 Q. Is there any reason why it should take so long to have
17 waste metal material removed and processed or recycled?

18 A. Not that I would know of, particularly, you know, here
19 in Jefferson County there is a rather large scrap metal operation
20 in town that would be a ready market. I mean, it has not been,
21 you know -- they are still paying for steel.

22 Q. Did you ask Mrs. White to have her husband send you a
23 letter proposing compliance dates for completing the corrective
24 action at the site?

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1 A. In talking with Mrs. White I said, you know, we had sent
2 the letter and had asked for a response and that we had not
3 really gotten anything. That I was pleased that they were making
4 some steps towards cleaning up the site, but I really needed to
5 get something from her husband committing to this or at least
6 responding to our administrative warning notice, just to get his
7 commitment on getting the site cleaned up and what he wanted as a
8 time schedule.

9 Q. Based upon your observations on May 25th, 1999, did you
10 cite Mr. White for a violation of 21.a, open dumping?

11 A. Yes, I did.

12 Q. Did you cite Mr. White for a violation of Section 21.p1,
13 open dumping resulting in litter?

14 A. Yes.

15 Q. Did you also cite other various violations?

16 A. Yes, I did.

17 Q. Did you take photographs on this particular day?

18 A. Yes, I did.

19 Q. Are those photographs made a part of your report?

20 A. Yes, they are.

21 Q. Do those photographs fairly and accurately depict the
22 observations that you made on May 25th of 1999 at the site?

23 A. Yes, they do.

24 HEARING OFFICER LANGHOFF: Excuse me, Mr. Scherschligt.

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1 MR. SCHERSCHLIGT: Yes.

2 HEARING OFFICER LANGHOFF: I have a couple of questions for
3 Mr. Steele.

4 Were you able to get out of your car during both of the
5 inspections on February 19th of 1999 and during the May 25th
6 reinspection?

7 THE WITNESS: The first visit I talked to Mr. White from
8 inside the car, because of the large number of dogs.

9 HEARING OFFICER LANGHOFF: Did you get out to take the
10 photographs?

11 THE WITNESS: I took photographs from the road outside
12 because there was an access road that runs through the middle of

13 the site. The photographs that I took were those that we could
14 take safely from the road out the car windows.

15 HEARING OFFICER LANGHOFF: The other questions I have, the
16 estimated amount of waste on the February 19th open dump
17 inspection checklist, People's Exhibit Number 1, is estimated at
18 1,000 cubic yards, and on People's Exhibit Number 3, the May
19 25th, 1999, open dump inspection checklist is 7,000 cubic yards.
20 Is that correct or is there something that --

21 THE WITNESS: On the second site visit where I spoke to
22 Mrs. White, I was actually able to get out of the car. Because
23 of the dogs -- we work with the Illinois State Police, and I had
24 him accompany me so that he could provide me with some protection

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1 from the animals while I did the site visit. So I was actually
2 able to get out of the car and walk around the site on that
3 second visit. The first visit was basically visual estimations
4 of what I could see from the road in photographs.

5 HEARING OFFICER LANGHOFF: So your best estimate is 7,000
6 cubic yards? That is a correct figure?

7 THE WITNESS: Yes, as a rough estimate.

8 HEARING OFFICER LANGHOFF: Okay. Thank you.

9 MR. SCHERSCHLIGT: Thank you.

10 Q. (By Mr. Scherschligt) Subsequent to your May 25th, 1999
11 inspection, did you receive any correspondence from Mr. White or
12 Mrs. White?

13 A. I received a letter from Mrs. White.

14 (Whereupon said document was duly marked for purposes of
15 identification as People's Exhibit 4 as of this date.)

16 Q. (By Mr. Scherschligt) I will hand you what I have
17 previously marked as People's Exhibit Number 4. Do you recognize
18 that?

19 A. This is the letter that I received from Mrs. White.

20 Q. Is there any indication on that letter as to the date of
21 the letter?

22 A. The postmark of the letter is June 14th, and we stamp
23 all correspondence coming into the Agency on the date we received
24 it, and we received it on June 16th of 1999.

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1 Q. Although the date that the letter was written is not
2 indicated; is that correct?

3 A. No, it is not indicated on the letter when it was
4 written.

5 Q. For purposes of today I would like to refer to that
6 correspondence as correspondence from Rita White dated June 14th
7 of 1999.

8 Did Mrs. White make any statements in that letter with
9 respect to the large green dumpster that was full of waste that
10 you had observed on previous inspections?

11 A. She said in the letter that she would have that removed

12 by July 1st of 1999.

13 Q. Did she indicate anything in the letter regarding the
14 junk vehicles located upon the site?

15 A. When I had been out there in May, one of the things that
16 we talked about is she said, is there any way that we could keep
17 all of these vehicles. And I said, the one way that I know of is
18 that you become licensed through the Secretary of State's Office
19 as an auto parts recycler. So, you know, that would show that,
20 you know, that they were in the business and that they were
21 actually going to be using these and then would comply with the
22 Secretary of State's standards.

23 So she had said that they would obtain a license from the
24 Secretary of State's Office as an auto parts recycler, and in the

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1 letter she committed to a July 31st of 1999 date. She also said
2 that they would have the rest of the metal waste off the site by
3 September 15th of 1999.

4 Q. Up to June 14th of 1999, you had received no indication
5 or you had seen no demonstration from Mr. White that he was in
6 the business of auto recycling or scrapping; is that correct?

7 A. No, there was no garage at the facility. All of the
8 vehicles were in areas where there was tall weed growth. There
9 were no what I would call paths going to these vehicles
10 regularly. He didn't say, during my conversation with him in
11 February, that he was in the auto repair business. He had simply

12 said that he wanted those to provide parts for these other
13 vehicles, which was further complicated in that the ones that he
14 wanted to fix were not the same make and model as those he said
15 he wanted to have for parts.

16 So there was no real indication that he was in the business
17 of auto repair or even auto salvage. He didn't tell me he wanted
18 to sell them. In my conversation with Mrs. White, she said, you
19 know, basically that Carl wanted them.

20 Q. Is it fair to say that the parts on the junk vehicles or
21 scrap vehicles would not work for the vehicles that he actually
22 owned and operated and had running at the times that you were
23 there?

24 A. While I am not an auto mechanic, I do some of my own,

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1 you know, maintenance work, but it would not appear that a wheel
2 assembly for, say, like a foreign car would fit on a Chevrolet
3 van or that any of the parts would be suitable for the
4 International dump truck that he said he was wanting to keep them
5 for repair for.

6 Q. What about the tires that you had seen on previous
7 visits?

8 A. They were still sitting there. We had talked to them
9 about the Agency doing one of their consentuary removals under
10 the tire program. But we told them that, number one, all of the

11 tires had to be off the rim, which they hadn't been, and we
12 really needed to have all of the other waste removed from the
13 site prior to the Agency coming in and doing the clean up.

14 Q. Is it your testimony that the Agency was willing to
15 remove these tires for Mr. White free of charge and all he had to
16 do is take them off the rims and complete the other corrective
17 actions?

18 A. Yes, we made that offer to him.

19 Q. So you were trying to assist Mr. White into coming into
20 compliance; is that correct?

21 A. Yes, we were.

22 Q. Did she make any statements to you with respect to a
23 regular trash hauler that had been hired?

24 A. I believe she said that they had hired Midwest Waste,

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1 the same company that had provided the dumpster, that that was
2 going to be the regular trash hauler.

3 Q. Did you respond to her letter, Mrs. White's letter to
4 you?

5 A. I believe I sent -- we sent a letter that we called --
6 it is our under legal review letter. It basically says we came
7 to the site and there are still problems. Here is a copy of the
8 inspection report, but please be advised that our division of
9 legal counsel is taking a look at it.

10 (Whereupon said document was duly marked for purposes of

11 identification as People's Exhibit 5 as of this date.)

12 Q. (By Mr. Scherschligt) I will hand you what has been
13 marked as People's Exhibit Number 5. Do you recognize that?

14 A. Yes, I do.

15 Q. Please tell us what that is?

16 A. Okay. It is a copy of the letter that I sent basically
17 confirming a couple of her deadlines and also letting her know
18 that her September date for having the other metal waste removed
19 was a little excessive and giving her an alternate compliance
20 date. And then I included as a last line that failing to comply
21 with those dates could subject them to civil penalties or an
22 enforcement action.

23 Q. And you signed that letter; is that correct?

24 A. Yes, I did.

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1 Q. Did you give them a compliance deadline of July 31, 1999
2 for the metal waste? Is there anything that would refresh your
3 recollection?

4 A. Yes, the letter itself, because we had included several
5 dates in here.

6 Q. Go ahead and refer to the letter and see if there is any
7 indication in there as to a compliance date that you gave them
8 for the metal waste?

9 A. We gave them until July 31st, 1999 for the removal of

10 the metal waste. I also included that as -- you know, accepted
11 her proposed date of July 31st, 1999, for getting the
12 authorization from the Secretary of State's Office. I further
13 included the provision that should they not obtain that
14 authorization that they would need to have the waste vehicles
15 removed by August 30th of 1999.

16 Q. Finally, does that letter warn them as to possible civil
17 penalties or enforcement in the event that they don't comply as
18 required?

19 A. Yes, it does.

20 Q. Okay. So that's yet another warning that you gave them?

21 A. Yes.

22 Q. In an effort to achieve compliance?

23 A. Yes.

24 Q. Do you recall visiting the site again on August 26th of

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1 1999?

2 A. Yes, I do.

3 Q. What was the purpose of that inspection?

4 A. It was basically a follow-up to the previous inspection
5 and the commitment in the compliance program that we had outlined
6 for the site.

7 Q. So this August 26th, 1999 inspection was as a follow-up
8 to your letter to the Whites dated June 28th, 1999 with the
9 compliance deadlines that you had given them?

10 A. Yes, it was.

11 (Whereupon said document was duly marked for purposes of
12 identification as People's Exhibit 6 as of this date.)

13 Q. (By Mr. Scherschligt) I hand you what I have previously
14 marked as People's Exhibit Number 6. Do you recognize that?

15 A. Yes, I do.

16 Q. What is that?

17 A. It is the inspection report I completed as a result of
18 my August 26th, 1999 site visit.

19 Q. To the best of your knowledge, is that a complete and
20 accurate copy of the report that you prepared in connection with
21 your August 26th, 1999 inspection?

22 A. Yes, it is.

23 Q. I believe you previously testified that the purpose of
24 this particular visit was to monitor compliance with the

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1 commitments made in their June 14th, 1999 letter?

2 A. Yes, it was.

3 Q. When I say "their," I am referring to Carl and Rita
4 White?

5 A. Yes.

6 Q. Did you, again, observe several dogs, large dogs,
7 running about at the site?

8 A. Yes. The dogs were still there. Again, only one of

9 them was chained. No one -- you know, as earlier, I would just
10 sit outside the mobile home of the property, you know, hoping
11 that the noise of the dogs would cause someone to come out. That
12 didn't work. I had my cellular phone with me on that date, so I
13 actually called the house trying to get someone to come out.

14 Q. Were you successful?

15 A. No, no one responded. So I went ahead and again
16 observed the site staying within the car.

17 Q. So you did not speak with anybody, either Carl or Rita
18 White on that particular date?

19 A. No, I didn't speak to either of the Whites.

20 Q. Did you observe any other animals, new animals at the
21 property?

22 A. They had put up an electric fence, which is a single
23 strand of electrical wire, and there was a horse with a colt at
24 the site feeding on the vegetation.

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1 Q. What about the roll-off box that was filled with waste
2 on previous visits? Was there anything unusual that you noticed
3 about it?

4 A. It was still there in spite of Mrs. White's commitment
5 that it would be gone by July 1st. The other interesting fact
6 was that it was inside the electrical fence.

7 Q. That would make it sort of difficult to empty it, would
8 it not?

9 A. Yes, it would.

10 Q. Based upon your observations on August 26th, did you
11 site, among other things, violations of Section 21.a and 21.p1?

12 A. Yes, I did.

13 Q. Did you take photographs on that visit?

14 A. Yes, I did.

15 Q. Are those photographs made a part of your report?

16 A. Yes, they are.

17 Q. Do those photographs fairly and accurately depict the
18 site conditions as you observed them on August 26th of 1999?

19 A. Yes, they do.

20 Q. Did the junk cars still remain?

21 A. Yes, the material was still there.

22 Q. The metal waste was still there?

23 A. Yes, the metal waste was still there. The tires were
24 still there. The roll-off box full of garbage and other

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1 materials was still there.

2 Q. So it would appear that none of their commitments had
3 been kept?

4 A. No.

5 Q. Did you then have occasion to speak with either Carl or
6 Rita White on the telephone subsequent to that inspection?

7 A. Yes, I spoke to Mrs. White.

8 Q. Now, when you receive a telephone call from an owner or
9 operator of a site that you are monitoring or a member of the
10 public, do you make any effort to record or document that
11 telephone call?

12 A. When it is from the owner or operator, the responsible
13 party of a site, we will document that.

14 Q. Did you receive a telephone call from Mrs. White on
15 October 5th of 1999?

16 A. Yes, I did.

17 Q. Did you prepare a telephone conversation record of that
18 call?

19 A. Yes, I did.

20 (Whereupon said document was duly marked for purposes of
21 identification as People's Exhibit 7 as of this date.)

22 Q. (By Mr. Scherschligt) I will hand you what I have
23 previously marked as People's Exhibit Number 7. Do you recognize
24 that?

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1 A. Yes, I do.

2 Q. Please tell us what that is?

3 A. This is the phone conversation record that I filled out
4 as a result of that conversation with Mrs. White.

5 Q. Did she make any statements with respect to the dumpster
6 or the roll-off box at the site?

7 A. She said that it had been taken off and she was waiting

8 to get a copy of the receipt to show that it had been properly
9 disposed of.

10 Q. So based upon her statements you believed the roll-off
11 box to be gone or the contents to be gone?

12 A. Yes.

13 Q. However, you had received no receipts evidencing the
14 proper disposal as of yet?

15 A. Have not received that yet.

16 Q. What about any statements with respect to the progress
17 that Carl had been making with the Secretary of State in
18 connection with getting a license to run an automobile salvage
19 yard?

20 A. She said that she had -- they made the application of
21 which she had previously sent me a copy of, to the Secretary of
22 State's Office. That they had come out to the site to do an
23 inspection as part of their licensing procedure, and that since
24 they really were not in the business, that they felt it would be

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1 inappropriate to issue a license, so they are going to return her
2 license fee.

3 Q. I would like to back up a moment just to clarify.
4 People's Exhibit Number 7, that particular telephone conversation
5 record, is that of a conversation that you had -- well, what date
6 was that record prepared for?

7 A. That was prepared for October 5th, 1999.

8 Q. Please check the date on there and verify the date on
9 the record. Is it, in fact, October 5th or is it an earlier
10 date?

11 A. The date here is October 5th.

12 Q. Okay.

13 A. Are you looking for my earlier phone call, where she
14 was --

15 Q. Yes, we will get to your earlier phone call next.

16 A. Okay.

17 Q. It is my fault. I am out of order here. Did she make
18 any statements in that conversation about whether or not the
19 Secretary of State was going to issue a salvage license?

20 A. No. She said that they had determined that they were
21 not in the business so they felt it would be inappropriate to
22 issue a license. She also said that since they were not in that
23 business they probably would not want to build a building and
24 other structures that they would need to comply with the

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1 Secretary of State's standards.

2 Q. Did she make any reference to her husband, Carl, as
3 being a pack rat?

4 A. Well, she said that -- you know, is there any other way
5 that we can go ahead and keep the cars. I said, well, why does
6 he want them. She said, well, he is just a pack rat. And my

7 response was, well, you know, without being in the business or
8 showing a use or showing that these are not waste, that he would
9 have to decide whether or not he wanted to keep them, if the
10 parts, the few parts that he was going to take off of those would
11 be worth the potential fines that he could receive for keeping
12 them.

13 (Whereupon said document was duly marked for purposes of
14 identification as People's Exhibit 8 as of this date.)

15 Q. (By Mr. Scherschligt) Okay. Now I will hand you what I
16 have previously marked as People's Exhibit Number 8. Do you
17 recognize that?

18 A. Yes, this is the telephone conversation record from when
19 I talked to Kay White on September 8, 1999.

20 Q. So this was prior to your October 5th conversation?

21 A. Yes, it was.

22 Q. In that particular conversation she stated to you that
23 the dumpster had been hauled off, but you hadn't received any
24 receipts yet?

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1 A. Right.

2 Q. She indicated that they were having a problem with the
3 Secretary of State, getting the salvage license, correct?

4 A. Yes. She said she had called the phone number but no
5 one answered, so they had not had an opportunity to get that.

6 Q. But then on October 5th, when you talked to her again,
7 you then learned that the Secretary of State had absolutely no
8 intention of issuing such a license?

9 A. What I had done as a result of this conversation,
10 because she said she was having trouble getting through, I
11 just -- first of all, I asked her what number she had been
12 calling. I called that number myself and, again, on three
13 occasions I got busy signals.

14 So then I just called my local drivers license examining
15 station there in Marion and said can you give me a number for
16 obtaining a salvage permit. And the person said, yes, there is
17 an office in Mt. Vernon of the Secretary of State police office
18 that handles that and their number is, so I called that number
19 and they said, yes, they had those license applications. And I
20 said, well, could you please send one and gave them Carl White's
21 name and address.

22 Q. After these two conversations that you had with Mrs.
23 White, do you then recall inspecting the site again?

24 A. Yes, I returned.

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1 Q. And do you recall what date that was?

2 A. That would have been the January 14th of 2000 site
3 visit.

4 Q. Is that the site visit that is the subject matter of the
5 administrative citation that has been filed in this matter?

6 A. Yes, it is.

7 Q. Did you prepare a report in connection with that visit?

8 A. Yes, I did.

9 (Whereupon said document was duly marked for purposes of
10 identification as People's Exhibit 9 as of this date.)

11 Q. (By Mr. Scherschligt) I hand you what I have previously
12 marked as People's Exhibit Number 9. Do you recognize that?

13 A. Yes, I do.

14 Q. What is it?

15 A. This is my report that I completed as a result of the
16 January 14th, 2000 site inspection.

17 Q. Is it a complete and accurate copy of your report?

18 A. Yes, it is.

19 Q. Is it fair to say that this is the fourth time that you
20 have inspected this facility since you noticed violations or
21 since you observed violations?

22 A. Yes.

23 Q. It was actually the fifth visit that you had made to the
24 facility, though, correct?

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1 A. Yes.

2 Q. The first time being February of 1995?

3 A. That's correct.

4 Q. And what was the purpose of this January 14th

5 inspection?

6 A. To determine the status of the site, see if it had been
7 cleaned up anymore, see if the steps that they had been taking on
8 the last visit and as a result of the receipts that Mrs. White
9 had mailed to me, that the clean up was continuing.

10 Q. Did anybody accompany you on this particular visit?

11 A. As I wanted to get out and observe the site, I had
12 Sergeant Bill McClement (spelled phonetically) with the Illinois
13 State Police accompany me, again, to provide protection for me
14 from the dogs while I did my site visit.

15 Q. So you were able to get out?

16 A. Yes, I was able to get out and walk around the site.

17 Q. Okay. Did you have occasion to speak with Mr. White on
18 that particular date?

19 A. Yes, Carl White was there and he came out and spoke with
20 us and actually walked part of the site with us.

21 Q. Did he make any statements with respect to the metal
22 waste that you had noticed on previous inspections?

23 A. He said that nothing had been hauled off since that, but
24 they had already given me receipts for it, and that was in

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1 September, was when they had mailed me some receipts showing that
2 they had shipped the dumpster off and that some of the metal
3 waste had been taken to the salvage yard. He said that was the
4 last he had hauled off.

5 Q. What about the tires, the waste tires that you had
6 observed on previous visits?

7 A. The tires were still there.

8 Q. Okay.

9 A. Actually, on this visit, since I was, again, able to get
10 out and walk the site more freely than I had been on previous
11 visits, I actually found a second accumulation of tires.

12 Q. How about the junk vehicles, had anything changed with
13 respect to those?

14 A. No, not really. About the only change was one vehicle
15 which was a Triumph sports car which had been completely taken
16 apart with the body sitting on the ground and with what were the
17 rest of the parts Mr. White identified as sitting on top of one
18 of the old trailer frames out in the weather. He said his
19 brother was going to rebuild that one. Other than that, all of
20 the cars were still there. They were in a couple of the areas.

21 One of the cars that was parked up by the trailers next to
22 the road actually had the windshield now broken out. One truck
23 that Mrs. White had previously identified as having belonged to
24 someone else had actually been removed by that owner.

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1 Q. Were the Whites still living on site?

2 A. Yes, they were.

3 Q. Were there any other mobile homes that you noticed in

4 addition to the one that they were living in? I believe you
5 testified there was one with the walls removed?

6 A. Well, there was one that was in the process of being
7 dismantled. There was also a mobile home up by the county road,
8 that during my first visit, back in 1999, the February one, that
9 Mr. White had said his brother was going to move into. Later
10 when I talked to Mrs. White, during I believe it was the May
11 visit, she said, well, no, Carl is going to move that trailer
12 back here and attach it to the one we are living in.

13 On this January date it was still sitting up by the road,
14 which is at the opposite end of the property from the one they
15 were living in. The windows were broken out. The doors were
16 open. It looked like junk had been thrown inside the trailer.

17 Q. I would like to direct your attention to the narrative
18 section of your report, if you could turn to that.

19 A. Okay.

20 Q. I notice that you have outlined specific areas of the
21 site, A, B, C and D.

22 A. Yes.

23 Q. Do those areas correspond with the areas depicted on
24 your site sketch?

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1 A. Yes, those directly correlate with the ones that I have
2 identified as A, B, C, D and E.

3 Q. What did you observe in area A?

4 A. Well --

5 Q. If you could go ahead and read what your report says?

6 A. That area A contained five vehicles, about nine lawn
7 mowers, and approximately a six yard by eighteen yard by one yard
8 pile of metal. One of the vehicles was a pickup truck with a bed
9 filled with metal waste.

10 Q. How about area B?

11 A. Tires, both on and off rim, these have been here for all
12 inspections.

13 Q. So you had noticed them from the very beginning?

14 A. Yes.

15 Q. How about area C?

16 A. A bus and an 18 yard by 29 yard of scattered metal waste
17 and a mobile home frame.

18 Q. What was the condition of the bus?

19 A. It was being used as a storage building, but it had been
20 there since at least the 1995 visit.

21 Q. Were the windows intact?

22 A. Most of them.

23 Q. Were some of them broken?

24 A. Yes.

1 Q. So it was exposed to the elements?

2 A. Some of the inside would have been exposed to the

3 elements, yes.

4 Q. Did it appear operable?

5 A. No.

6 Q. Did it appear that it had ever been moved since you
7 first saw it?

8 A. It was in the same spot in January of 2000 as it was in
9 February of 1995 when I first went to the site.

10 Q. How about area D?

11 A. It contained a mobile home frame covered with auto parts
12 and building debris. This is where Mr. White said the auto parts
13 from the car his brother-in-law was rebuilding were sitting.

14 Q. And area E?

15 A. It had five vehicles, a camping trailer, a car body,
16 this being the body of the car that the brother was supposedly
17 rebuilding, shingles, metal waste, a pile of landscape waste and
18 brush, the additional pile of approximately 300 tires that I
19 observed on this date. Then there was also a -- the remains of a
20 small building that had two cars inside, a lot of metal pipe and
21 some wood materials.

22 Q. Based upon your observations on January 14th of this
23 year, did you believe Mr. White to be in violation of 21.a and
24 21.p1?

1 A. Yes, I did.

2 Q. And are those observations the basis for the

3 administrative citation that has been filed in this matter?

4 A. Yes, they are.

5 Q. Did you take photographs on this particular date?

6 A. Yes, I did.

7 Q. I would like to briefly go through your photographs, so
8 if you could please turn to photograph number one that has been
9 made a part of your report. Please tell us what is depicted on
10 photograph number one?

11 A. Photograph number one is taken from off site prior to us
12 entering the facility. And it shows some of the waste,
13 particularly, you know, the bus that is used as a storage
14 building. Then just to the right of that bus you can -- there is
15 a small pile of the metal waste that you can make out. It also
16 shows to the left side of the photograph, in the middle, some of
17 the other metal waste and debris plus the Whites' mobile home in
18 the background.

19 Q. How about photograph number two, what is depicted in
20 that photograph?

21 A. Photograph number two shows the blue pickup truck, which
22 has metal waste filling the bed and overflowing onto the ground,
23 plus some of the other metal waste that are laying on the ground
24 at the site and one of the dogs.

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1 Q. That is one of the seven dogs, I believe?

2 A. That is one of the seven dogs.

3 Q. How about photograph number three?

4 A. Photograph number three is of an area adjacent to what
5 is shown in photograph number two.

6 Q. It is just a different angle, if you will?

7 A. Well, I have moved down a little bit and taken a shot.
8 So, you know, photo two in the scheme of the site would attach --
9 would be to the right of what I show in photograph three.

10 Q. I see. How about photograph number four?

11 A. Photograph number four is, again, just -- you can almost
12 attach photograph number four to photograph three. It is sort of
13 a panoramic shot. Again, it is showing additional metal waste,
14 one of the vehicles at the site, and then the start of the tire
15 pile.

16 Q. Does the waste appear to be overgrown by vegetation?

17 A. Yes. Particularly you can see in photograph number
18 three where the weeds are almost as tall as the van that is
19 sitting there.

20 Q. How about photograph number five, what is depicted in
21 that photograph?

22 A. Photograph number five is the trailer frame and has the
23 auto parts and the other debris stacked on top of it and then
24 some other metal waste materials there in the center part of the

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1 site.

2 Q. And photograph number six, what is depicted in that
3 photograph?

4 A. Photograph number six shows, again, the bus and you can
5 see how the door is gone and a couple of the windows that are
6 missing as well as the metal waste and some of the other
7 materials that are there on the site and, again, there in the
8 center part of the picture you can see that the weeds are as tall
9 as the truck frame that is there.

10 Q. Does the waste appear to be commingled or is it of like
11 kind?

12 A. It is pretty much commingled.

13 Q. Are there any homogeneous piles?

14 A. The tires are pretty much tires. If you backed it up to
15 the broad classification of mostly metal, you could do that. But
16 the metal is not really separated out to the different types of
17 like sheet metal and cast metal and forged steel, so it would --
18 it is just all there.

19 Q. In terms of organization, does it appear to be operated
20 consistent or in a manner that you would expect to see at a
21 salvage yard where someone is trying to salvage material for
22 revenue or for money?

23 A. No, none of the materials are, you know, off the ground.
24 They are all stored on the ground. They are all out in the

1 weather. Like I said, they are not separated by type, with the
2 sheet metal being in one location, cast metal being in another
3 location, forged steel being in another location. They are also
4 really not near the road.

5 Q. That would facilitate the removal?

6 A. To facilitate loading and removal. The weed growth is
7 high around them. And then, you know, to a lesser extent in the
8 photographs you can see in five and in six of how, you know,
9 there is some wood and some paper and cardboard and, you know,
10 like in photograph five there is the remains of a toilet in and
11 amongst the auto parts. So it is just all sort of --

12 Q. That was not an out house?

13 A. No, no. This was -- the trailer frame shown in photo
14 five is one of which had gone there first in February of 1999.
15 There were more than four mobile homes on the site that as part
16 of some of their early efforts to clean the site up Mr. White and
17 his brother dismantled the trailer. This is one of the -- this
18 frame is from the trailer that was dismantled at the site.

19 Q. How about photograph number seven, what is depicted in
20 that photo?

21 A. Photograph number seven is another mobile home frame
22 with wood debris and metal sitting on top of it. This is another
23 of the mobile homes that was demolished at the site, from my
24 understanding, after talking to Mr. White and Mrs. White.

1 Q. Dismantled by Mr. White?

2 A. Yes.

3 Q. How about photograph number eight? That appears to be a
4 junk vehicle?

5 A. Yes, this is the junk vehicle that has had the
6 windshield broken out since the previous visit.

7 Q. Nine and ten, photographs nine and ten appear to be the
8 same, of vehicles. One appears to be a close up; is that fair to
9 say?

10 A. Yes, these are other vehicles that were there at the
11 site. And then I took the second photo a little closer up so
12 that you can see the general condition of the one car there. The
13 hood is open and it is rusting and just in really sad shape. And
14 they are also just packed together, so it would be really
15 difficult to go in there and remove parts from them if you wanted
16 to.

17 Q. What is depicted in photograph number eleven?

18 A. Number eleven is metal waste, vehicles, you know, old
19 white goods, empty drums, that were all piled in a depression
20 area next to the small building, and there is also -- you can see
21 a small pile of shingles there next to the concrete retaining
22 wall.

23 Q. And, finally, what is depicted in photograph number
24 twelve?

1 A. Photograph number twelve is the stacked pile of tires
2 that I first photographed on this date.

3 Q. What is the potential harm of having a stack of tires on
4 your property?

5 A. The primary concern is, number one, vectors. These
6 tires will contain water and mosquitoes will live in them. The
7 one that causes the greatest concern, for at least the Illinois
8 EPA, is the Asian Tiger Mosquito, which has been found in
9 Jefferson County, which is a disease carrying mosquito.

10 Q. What types of diseases do those mosquitoes carry?

11 A. I believe one of them is called dungy fever.

12 Q. How about encephalitis?

13 A. Other mosquitoes, the Tree Hole Mosquito and what is
14 called Adeis Aldo Pictus, which is the technical name for it, is
15 the one that carries that.

16 Q. For the benefit of the court reporter, could you repeat
17 that disease that you last mentioned?

18 A. The insect?

19 Q. Yes.

20 A. The insect is called Adeis, A-D-E-I-S, I am guessing,
21 Aldo, A-L-D-O, P-I-C-T-U-S. And that's a straight phonetic
22 spelling. But that's the one that --

23 Q. And the threat is that these vectors carry disease?

24 A. Right, that they carry disease. And also --

1 Q. Okay. Is -- I am sorry. Go ahead.

2 A. And secondarily you have the problem that if these
3 things catch fire they release, you know, large amounts of black
4 smoke which could cause problems, as well as the ash and the oil
5 that would generate from melting these tires in a fire that would
6 pose an environmental problem.

7 Q. Did you see if the tires had been altered so that they
8 would not accumulate water?

9 A. No, they had not been altered. They were sitting
10 stacked up out in the open with no covering.

11 Q. Do these photographs fairly and accurately depict the
12 site conditions as you observed them on January 14th of this
13 year?

14 A. Yes, they do.

15 Q. Based upon your observations and your contact with this
16 facility and with Mr. White, did you believe it necessary to
17 issue an administrative citation?

18 A. Yes, I did.

19 Q. Did it appear to you that all of your efforts to assist
20 Mr. White into coming into compliance had failed?

21 A. Yes. I had given him multiple deadlines, given him
22 encouragement for what few activities he had done and constantly
23 warned him that his failure to act and clean up the site could
24 result in a penalty. Like I said, I even made the phone call to

1 the Secretary of State's Office for him to get him the
2 application for the salvage yard. I did pretty much all I could
3 do falling short of taking my own truck up there and starting to
4 haul things away.

5 Q. Have you had any contact with Mr. White or Mrs. White or
6 anybody else with respect to this particular site since your
7 January 14th inspection?

8 A. No, I have not.

9 MR. SCHERSCHLIGT: Okay. That's all I have. Thank you.

10 HEARING OFFICER LANGHOFF: Thank you, Mr. Steele.

11 (The witness left the stand.)

12 HEARING OFFICER LANGHOFF: Mr. Scherschligt, would you like
13 to offer People's Exhibits 1 through 9 at this time?

14 MR. SCHERSCHLIGT: Yes, I would. At this time I would move
15 that Exhibits 1 through 9 be admitted into the record.

16 HEARING OFFICER LANGHOFF: For the record, People's
17 Exhibits 1 through 9 are admitted into the record.

18 (Whereupon said documents were admitted into evidence as
19 People's Exhibits 1 through 9 as of this date.)

20 MR. SCHERSCHLIGT: The State rests.

21 HEARING OFFICER LANGHOFF: Thank you. As far as a finding
22 of credibility, I am required under law to make a finding of
23 such. The only witness who testified today was Gerald Steele. I
24 find, based on my legal judgment and my own experience, that

1 there was no question of credibility.

2 For the record, I have admitted the documents People's
3 Exhibits 1 through 9, and they will be taken into my custody. I
4 will then transport them to the Clerk's office at the Pollution
5 Control Board.

6 Thank you. The hearing is concluded.

7 MR. SCHERSCHLIGT: Thank you.

8 (Hearing Exhibits 1 through 9 were retained by Hearing
9 Officer Steven C. Langhoff.)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4
5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 57 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 25th of July A.D.,
9 2000, at the Jefferson County Courthouse, Mt. Vernon, Illinois,
10 in the case of the Illinois Environmental Protection Agency v.
11 Carl White (Harmony/Carl White), in proceedings held before the
12 Honorable Steven C. Langhoff, Hearing Officer, and recorded in
13 machine shorthand by me.

14 IN WITNESS WHEREOF I have hereunto set my hand and affixed
15 my Notarial Seal this 31st day of July A.D., 2000.

16

17

18

19

20 Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

21

22 CSR License No. 084-003677
My Commission Expires: 03-02-2003

23

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