

1 BEFORE THE POLLUTION CONTROL BOARD  
OF THE STATE OF ILLINOIS

2

3 COUNTY OF WILL, )  
)

4 Complainant, )  
)

5 vs ) No. AC 98-008  
)

6 WILLIAM HUNTER, )  
)

7 Respondent. )

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11 The following is the transcript of a hearing

12 held in the above-entitled matter, taken

13 stenographically by GEANNA M. IAQUINTA, CSR, a

14 notary public within and for the County of Cook and

15 State of Illinois, before Jack Burds, Hearing

16 Officer, at 14 West Jefferson Street, Joliet,

17 Illinois, on the 31st day of March, 1998, A.D.,

18 scheduled to commence at 1:00 o'clock p.m.,

19 commencing at 1:20 p.m.

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1 A P P E A R A N C E S:

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HEARING TAKEN BEFORE:

3

ILLINOIS POLLUTION CONTROL BOARD,

4

100 West Randolph Street

Suite 11-500

5

Chicago, Illinois 60601

(312) 814-6923

6

BY: MR. JACK BURDS

7

WILL COUNTY STATE'S ATTORNEY OFFICE,

8

14 West Jefferson

Room 200

9

Joliet, Illinois 60432

(815) 727-8758

10

BY: MS. DAWN UNDERHILL

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Appeared on behalf of the Complainant.

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1            I N D E X

2                                      P A G E S

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4    GREETING BY HEARING OFFICER..... 4

5    OPENING STATEMENT OF DAWN UNDERHILL..... 5

6    TESTIMONY OF EDWARD OVERTURF..... 7

7    CLOSING STATEMENT OF DAWN UNDERHILL..... 14

8    CLOSING COMMENTS BY HEARING OFFICER..... 16

9

10            E X H I B I T S

11                                      M a r k e d   f o r

12                                      I d e n t i f i c a t i o n

13   P e o p l e ' s   E x h i b i t   N o .   1..... 10

14   P e o p l e ' s   E x h i b i t   N o .   2..... 12

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1 THE HEARING OFFICER: Let the record reflect  
2 that today's date is March 31st. It is  
3 approximately twenty after 1:00 p.m. on March 31st,  
4 1998.

5 My name is Jack Burds. I'm a hearing  
6 officer with the Illinois Pollution Control Board.  
7 We are here today on case number -- administrative  
8 citation number 98-008, which is the Illinois  
9 Pollution Control Board docket number in the matter  
10 of County of Will as complainant versus William  
11 Hunter who is the petitioner in this matter in the  
12 administrative citation.

13 We are -- as the order indicated that I  
14 issued on February 9th, 1998, we are at the Will  
15 County Courthouse, courtroom 313, on the third floor  
16 at 14 West Jefferson in Joliet, Illinois.

17 At this time, what I would like is all the  
18 parties to identify themselves, those parties who  
19 are present.

20 MS. UNDERHILL: My name is Dawn Underhill. I'm  
21 an assistant state's attorney for the county of  
22 Will.

23 THE HEARING OFFICER: Let the record reflect  
24 that no one has appeared on behalf of the petitioner

1 or respondent William Hunter, either Stephen  
2 Masters, who a notice was served upon at Stephen M.  
3 Masters, Stephen M. Masters & Associates, P.C., EMCO  
4 Plaza, 57 North Ottawa Street, suite 310, Joliet,  
5 Illinois, 60432.

6 Ms. Underhill, have you had any contact  
7 with Mr. Masters or Mr. Hunter?

8 MS. UNDERHILL: I did not.

9 THE HEARING OFFICER: Okay. Then we will  
10 proceed in absentia. At this time, I would ask, as  
11 far as the parties, if they have any prehearing  
12 motions or other motions before we proceed to  
13 trial?

14 MS. UNDERHILL: No prehearing motions.

15 THE HEARING OFFICER: Okay. Do you have any  
16 opening statement at this time, Ms. Underhill?

17 MS. UNDERHILL: Yes. The county of Will on  
18 July 21st, 1997, was -- it was brought to our Will  
19 County Sheriff's Department's attention that there  
20 was an occurrence located at 721 Patterson Road in  
21 Joliet of open dumping and open burning, and the  
22 county is going to bring forward evidence by Deputy  
23 Overturf who will state to the facts that he, in  
24 fact, saw on the property at that location Mr.

1 William Hunter, who is the respondent or petitioner  
2 in this case, in violation of the open dumping and  
3 open burning, and for those reasons because he had  
4 violated the Illinois Environmental Pollution Act,  
5 the county is looking for a total of fines of  
6 \$1,000, 500 for the open burning, 500 for the open  
7 dumping.

8 THE HEARING OFFICER: Again, let the record  
9 reflect that no one has appeared on behalf of the  
10 petitioner, William Hunter, or on behalf of  
11 Mr. Masters, the attorney who has entered an  
12 appearance in this case.

13 All right. Your first witness,  
14 Ms. Underhill.

15 MS. UNDERHILL: The first witness I would like  
16 to -- well, the only witness I have is Deputy  
17 Overturf.

18 THE HEARING OFFICER: Mr. Overturf, I don't  
19 know if you're more comfortable there. It might be  
20 even more helpful for the court reporter if you sit  
21 up here and be sworn.

22 Ms. Iaquinta, would you swear in the  
23 witness, please?

24

1 (Witness sworn.)

2 WHEREUPON:

3 EDWARD OVERTURF,

4 called as a witness herein, having been first duly

5 sworn, depose and saith as follows:

6 EXAMINATION

7 by Ms. Underhill

8 Q. Can you please state your name for the

9 record?

10 A. Edward Overturf.

11 Q. And where are you employed?

12 A. Will County Sheriff's Office.

13 Q. And what is your position?

14 A. I'm a deputy sheriff.

15 Q. Okay. And what locations are you

16 basically -- what are your duties in the areas?

17 A. I'm in the patrol division.

18 Q. Okay. And is that all of Will County?

19 A. Yes.

20 Q. And on patrol, can you basically give a

21 summation of what your duties entitle or entail?

22 A. Patrolling Will County to enforce the laws

23 and ordinances, to answer calls as I'm assigned to

24 them, and also to respond to any incident that I

1 might encounter.

2 Q. Okay. And how long have you worked for  
3 the Will County Sheriff's Department?

4 A. Fourteen years.

5 Q. Okay. If I can direct your attention to  
6 July 21st, 1997, can you please state or can you  
7 give an idea of what time you were on patrol on that  
8 day?

9 A. The incident that we're speaking of today  
10 was approximately 1:59 p.m.

11 Q. And if I can direct your attention to the  
12 address of 721 Patterson Road, how did you become  
13 familiar with that property?

14 A. A truck driver flagged me down and told me  
15 he thought that the house was on fire at that  
16 location because he saw smoke coming from, he  
17 thought, inside the house.

18 Q. Okay. And then what did you do?

19 A. I went to the location, and I found out  
20 that the smoke was not coming from inside the house,  
21 but rather it was coming from a ground fire behind  
22 the house.

23 Q. Okay. Were you in your patrol car at that  
24 time when you saw the fire?



1 A. Yes, I was.

2 Q. Okay. Did you get out of your patrol car  
3 and go to the actual site of the fire?

4 A. Yes.

5 Q. Okay. When you got to that site, what did  
6 you see?

7 A. I observed Mr. Hunter burning a pile of  
8 copper wire, burning the insulation off of it.

9 Q. And how did you identify  
10 Mr. Hunter?

11 A. He gave me a driver's license.

12 Q. Okay. And you saw him burning wire. Was  
13 there anything else in that area?

14 A. He was burning near a shed that was very  
15 near the house. Other than that, his truck.

16 Q. Okay. If I can show you this picture, do  
17 you recognize that picture and what it depicts?

18 A. Yes.

19 Q. And what are the items there?

20 A. That is the pile of wire that  
21 Mr. Hunter was burning after it was extinguished.  
22 There's like a trash barrel nearby and some other  
23 debris.

24 Q. Okay. And did you actually take that

1 picture?

2 A. No.

3 Q. Who took the picture?

4 A. Our evidence tech, Dan Simonson.

5 Q. Okay. And after that picture was taken,  
6 where did it go?

7 A. Our evidence technician took it to our  
8 evidence division at our sheriff's office, and he  
9 kept it until yesterday when I retrieved it from  
10 there.

11 Q. Okay. So then that picture is an actual  
12 depiction of what you had seen on that site on  
13 February 21st, 1997?

14 A. That's true.

15 MS. UNDERHILL: Okay. At this time, I'd like  
16 to label this as Exhibit -- Complainant's Exhibit  
17 No. 1.

18 THE HEARING OFFICER: Let the record reflect  
19 that I'm going to mark this as People's Exhibit 1  
20 for identification purposes.

21 (People's Exhibit No. 1  
22 marked for identification,  
23 3-31-98.)

24 THE HEARING OFFICER: Are you admitting the

1 document at this time?

2 MS. UNDERHILL: Pardon me?

3 THE HEARING OFFICER: Are you admitting the

4 document at this time?

5 MS. UNDERHILL: I would make a motion to admit

6 it as evidence.

7 THE HEARING OFFICER: Okay.

8 BY MS. UNDERHILL:

9 Q. Deputy Overturf, can you please identify

10 this object here?

11 A. Yes.

12 Q. And what is it?

13 A. That's a sample of the wire that was

14 burning at the time I arrived on the scene.

15 Q. Okay. And in regards to this wire, who

16 took this into evidence?

17 A. I did.

18 Q. Okay. And what was your course of taking

19 this wire into evidence?

20 A. Well, obviously, I waited until it cooled

21 down a little bit. Then I took a sample of the

22 wire, and I took it to our sheriff's station where I

23 entered it into our evidence vault, and it was kept

24 there pending this hearing.

1 Q. Okay. So this is the actual wire that you  
2 took from the scene?

3 A. That's right.

4 Q. Okay.

5 MS. UNDERHILL: Would you like me to put it  
6 back into the bag?

7 THE HEARING OFFICER: That's fine.

8 MS. UNDERHILL: At this time then, I would like  
9 to enter this as Exhibit No. 2 for the complainant.

10 THE HEARING OFFICER: For the record, I will  
11 mark this as People's Exhibit 2, and what I'm  
12 marking is the item just referred to as copper wire.

13 MS. UNDERHILL: The copper wire, correct.

14 THE HEARING OFFICER: It's People's Exhibit No.  
15 2, and it is admitted for the record  
16 (People's Exhibit No. 2  
17 marked for identification,  
18 3-31-98.)

19 MS. UNDERHILL: Thank you.

20 BY MS. UNDERHILL:

21 Q. After you had taken the evidence from the  
22 scene, what was your next procedure?

23 A. I took the evidence back to our station  
24 where it was entered into the evidence vault, and I

1 completed a report.

2 Q. Okay. On that site, did you instruct

3 Mr. Hunter to extinguish the fire?

4 A. Yes. Immediately upon arriving on that

5 site, he extinguished it immediately.

6 Q. Okay. And did you give him any notices in

7 regard to the violation of the open burning or open

8 dumping?

9 A. No, not on that date.

10 Q. But you did follow through and write a

11 report, correct?

12 A. Yes, I did.

13 Q. And that then was stated -- brought into

14 the state's attorney office?

15 A. That's correct.

16 MS. UNDERHILL: I have no further questions.

17 THE HEARING OFFICER: Okay. Let the record

18 reflect that, again, no one has appeared on behalf

19 of the defendant or defendant's counsel.

20 You may step down, Mr. Overturf. I have

21 no questions unless you have --

22 MS. UNDERHILL: I don't, no. If I could just

23 have an opportunity for a quick closing statement,

24 that's it.

1 THE HEARING OFFICER: Well, here's what I  
2 have. There are members -- I would like the record  
3 to reflect that members of the public have entered  
4 into the proceeding at this time.

5 What I should do at this point is ask if  
6 any of them are -- I do not believe they are related  
7 to this proceeding. I do not know whether Mr. Hunter  
8 has entered the courtroom or not or Mr. Masters.

9 Is there a Mr. Hunter or a Mr. Masters  
10 here, or is anyone here related to the  
11 administrative citation 98-008, County of Will vs.  
12 William Hunter?

13 Okay. I'd ask at this time if any members  
14 of the public out standing in the gallery have any  
15 questions for Mr. Overturf or have any statements  
16 they would like to make. Okay. Let the record  
17 reflect that there are none.

18 Any closing statements, Ms. Underhill?

19 MS. UNDERHILL: Basically, with the evidence  
20 that Deputy Overturf did see on the site located at  
21 721 Patterson Road was a violation of the EPA and  
22 that he did observe open dumping and open burning.  
23 For those reasons, the state requests that the  
24 Pollution Control Board find him guilty of the open

1 dumping and open burning and also award the fines of  
2 \$1,000.

3 THE HEARING OFFICER: I don't know, Ms. Underhill,  
4 whether you want an opportunity to brief this case  
5 or not or what your general practice is here in Will  
6 County. I know some people do want the opportunity  
7 to brief the evidence that they've submitted. Do  
8 you want that opportunity?

9 MS. UNDERHILL: No, thank you.

10 THE HEARING OFFICER: Let the record reflect  
11 that there is no such request. Therefore, no  
12 briefing schedule will be entered. As far as a  
13 finding of credibility, I am required under the law  
14 to make a finding of credibility. The only witness  
15 who testified was Deputy Overturf.

16 I find based on my legal judgment and my  
17 own experience that there is no question of  
18 credibility. Therefore, at this time, I would ask,  
19 again, if there are any statements from the gallery,  
20 if there's anyone here in relation to the County of  
21 Will vs. William Hunter and AC 98-008, if there are  
22 any statements, they are to be made by the public at  
23 this time.

24 Let the record reflect that there are

1 none. At this time, if there's no other matters, we  
2 will close this hearing.

3 Ms. Underhill, anything else?

4 MS. UNDERHILL: We're done.

5 THE HEARING OFFICER: Thank you very much. I  
6 believe that's all I have. The record is closed.

7 MS. UNDERHILL: Thank you.

8 THE HEARING OFFICER: I guess we should go back  
9 on the record for one -- for the record, we have  
10 admitted both documents, People's Exhibit 1 and  
11 People's Exhibit 2. They will be taken into the  
12 custody of the hearing officer. The hearing officer  
13 will then transport them to the clerk's office at  
14 the Illinois Pollution Control Board.

15 (Which were all the  
16 proceedings had in the  
17 above-entitled matter.)

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1 STATE OF ILLINOIS )  
                                  ) SS.  
2 COUNTY OF C O O K )

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4       I, GEANNA M. PIGNONE-IAQUINTA, do  
5 hereby state that I am a court reporter doing  
6 business in the City of Chicago, County of Cook, and  
7 State of Illinois; that I reported by means of  
8 machine shorthand the proceedings held in the  
9 foregoing cause, and that the foregoing is a true  
10 and correct transcript of my shorthand notes so  
11 taken as aforesaid.

12

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\_\_\_\_\_

14       Geanna M. Pignone-Iaquinta  
15       Notary Public, Cook County, IL  
          Illinois License No. 084-004096

16

17       SUBSCRIBED AND SWORN TO  
18       before me this \_\_\_\_\_ day  
          of \_\_\_\_\_, A.D., 1998.

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20       Notary Public.

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