

1                   BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3       ILLINOIS ENVIRONMENTAL

4       PROTECTION AGENCY,

5               Complainant,

6       vs.

PCB No. AC 01-29

7       LESSLIE YOCUM, SANDRA YOCUM,

AC 01-30

8       RICK L. YOCUM, AND SHAWNA B.

(Consolidated)

9       YOCUM (Birmingham/Yocum #1)

10      IEPA Docket No. 063-01-AC

11      (Consolidated with AC 01-30)

12               Respondents.

13

14

15               Proceedings held on January 22, 2002 at 9:00 a.m., at the

16       Schuyler County Courthouse, Jury Room 1, 102 South Congress

17       Street, Rushville, Illinois, before Hearing Officer Steven C.

18       Langhoff.

19

20

21                       Reported by: Darlene M. Niemeyer, CSR, RPR

CSR License No.: 084-003677

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A P P E A R A N C E S

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
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I N D E X

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| WITNESS                               | PAGE NUMBER |
|---------------------------------------|-------------|
| WILLIAM E. ZIERATH                    |             |
| Direct Examination by Ms. Ryan.....   | 9           |
| Cross-Examination by Mr. Rehn.....    | 22          |
| Redirect Examination by Ms. Ryan..... | 25          |
| Recross Examination by Mr. Rehn.....  | 27          |
| LESSLIE YOCUM                         |             |
| Direct Examination by Mr. Rehn.....   | 28          |
| Cross-Examination by Ms. Ryan.....    | 45          |

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| 1  | E X H I B I T S        |                 |         |
|----|------------------------|-----------------|---------|
| 2  |                        |                 |         |
| 3  | NUMBER                 | MARKED FOR I.D. | ENTERED |
| 4  | Hearing Exhibit 1      | 11              | 20      |
|    | Hearing Exhibit 2      | 16              | 20      |
| 5  |                        |                 |         |
| 6  | Respondent's Exhibit 1 | 35              | 37      |
|    | Respondent's Exhibit 2 | 37              | 38      |
| 7  |                        |                 |         |
| 8  |                        |                 |         |
| 9  |                        |                 |         |
| 10 |                        |                 |         |
| 11 |                        |                 |         |
| 12 |                        |                 |         |
| 13 |                        |                 |         |
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1 P R O C E E D I N G S

2 (January 22, 2002; 9:00 a.m.)

3 HEARING OFFICER LANGHOFF: Good morning, everyone. My name  
4 is Steven Langhoff. I am the Pollution Control Board Hearing  
5 Officer who has been assigned this matter and will be holding the  
6 hearing today.

7 This is AC 01-29 and AC 01-30, Illinois Environmental  
8 Protection Agency versus Lesslie Yocum, et al. For the record,  
9 it is Tuesday, January 22nd, 2002, and we are beginning at 9:00  
10 a.m.

11 I want to note for the record that there are no members of  
12 the public present today. Members of the public are encouraged  
13 and allowed to provide public comment if they so choose.

14 On March 6th of 2001, the Illinois Environmental Protection  
15 Agency, Agency or Complainant, issued two administrative  
16 citations to the respondents. On April 5th of 2001 the  
17 respondents filed a petition for review. The Board accepted this  
18 matter for hearing on May 3rd of 2001.

19 The Board, on its own motion, consolidated the two  
20 administrative citations. Administrative citation 01-29 is  
21 entitled Illinois Environmental Protection Agency versus Lesslie  
22 Yocum, Sandra Yocum, Rick L. Yocum, and Shawna B. Yocum, and is  
23 also known as Birmingham/Yocum Number 1. Administrative citation  
24 01-30 is Illinois Environmental Protection Agency versus Lesslie

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1 Yocum and Sandra Yocum, also known as Birmingham/Yocum Number 2.

2 At issue in these cases are allegations made in the two  
3 administrative citations filed by the Agency. The violations  
4 alleged in the first administrative citation, Birmingham/Yocum  
5 Number 1, are for operating an open dump in violation of 21(p)(1)  
6 and 21(p)(7) of the Environmental Protection Act, 415 ILCS  
7 5/21(p)(1) and 5/21(p)(7). The alleged violations occurred in  
8 unincorporated Birmingham. The second administrative citation  
9 alleges that the same violations occurred at an open dump located  
10 northeast of unincorporated Birmingham, Birmingham/Yocum Number  
11 2.

12 I want to take a brief moment to let you know what is going  
13 to happen today and after the hearing today. You should know  
14 that it is the Pollution Control Board, and not me, that will be  
15 deciding this case. My job as a Hearing Officer requires that I  
16 conduct the hearing in a neutral and orderly manner and maintain  
17 a clear record for the Board. During the course of the hearing,  
18 please feel free to address me as Mr. Langhoff or Mr. Hearing  
19 Officer, whichever you should choose.

20 It is also my duty to assess the credibility of witnesses  
21 giving testimony today. I will do so on the record at the  
22 conclusion of the proceedings. We will begin with an opportunity  
23 for opening statements from both parties and then we will proceed

24 with the Agency's case followed by Mr. Rehn having an opportunity

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1 to put a case on in his clients behalf. We will conclude with  
2 any closing arguments that the parties wish to make, and then we  
3 will discuss off the record a briefing schedule, which we will  
4 then set on the record at the conclusion of the proceedings.

5 The Board's Procedural Rules and the Act provide that  
6 members of the public shall be allowed to speak or submit written  
7 statements at hearing. Any person offering such testimony today  
8 shall be subject to cross-examination by both of the parties.  
9 Such statements offered by members of the public must be relevant  
10 to the case at hand. I will call for any statements from members  
11 of the public at the conclusion of the hearing.

12 This hearing was noticed pursuant to the Act and the  
13 Board's Rules and Regulations, and will be conducted pursuant to  
14 Sections 101.600 through 101.632 and Part 108 of the Board's  
15 Procedural Rules.

16 At this time I will ask the parties to make their  
17 appearances on the record, beginning with the Agency.

18 MS. RYAN: I am Michelle Ryan. I am a Special Assistant  
19 Attorney General representing the Illinois EPA.

20 I would like to apologize. I realize I have not filed a  
21 written appearance in this matter. Unfortunately, the printers  
22 were off line yesterday and I was unable to do that. So I am  
23 hoping to get that on file by the end of today.

24

HEARING OFFICER LANGHOFF: Thank you. Mr. Rehn.

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1 MR. REHN: My name is John Rehn. I am representing all the  
2 defendants who have actually -- that the Court or the Pollution  
3 Control Board has jurisdiction over here today. I have filed an  
4 appearance for all of them.

5 HEARING OFFICER LANGHOFF: Thank you, Mr. Rehn. Do we have  
6 any preliminary matters that we need to discuss on the record?

7 MS. RYAN: No.

8 MR. REHN: I don't believe so.

9 HEARING OFFICER LANGHOFF: Okay. Thank you. Any  
10 outstanding or prehearing motions that the parties would like to  
11 present before we proceed?

12 MS. RYAN: No.

13 MR. REHN: No.

14 HEARING OFFICER LANGHOFF: Thank you. Would the Agency  
15 like to give a brief opening statement on behalf of its client?

16 MS. RYAN: Yes. We believe the evidence today will show  
17 that at both of the sites, Yocum Number 1 and Yocum Number 2, on  
18 the date of the inspection, which was January 11th of 2001, there  
19 were violations of 21(p)(1) and 21(p)(7) of the Environmental  
20 Protection Act, that being the open dumping of waste in a manner  
21 resulting in litter and the deposition of demolition or  
22 construction debris.

23 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Ryan. Mr.  
24 Rehn?

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1 MR. REHN: Yes. Briefly, we believe the evidence is going  
2 to show that Mr. Yocum did have a lot of material on his  
3 property, and some of it may not look pretty to others when they  
4 drive down the roadway. But I believe the evidence is not going  
5 to show there was open dumping or that this material was waste.  
6 Most of the material was purchased by Mr. Yocum for his use  
7 and/or tinkering with after he retires.

8 HEARING OFFICER LANGHOFF: Thank you. Go ahead and present  
9 your case-in-chief, please.

10 MS. RYAN: We call William Zierath.

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

12 W I L L I A M Z I E R A T H,  
13 having been first duly sworn by the Notary Public, saith as  
14 follows:

15 DIRECT EXAMINATION

16 BY MS. RYAN:

17 Q. Can you state your name, please.

18 A. William Edward Zierath.

19 Q. And what is your occupation?

20 A. I work as a field inspector for the Illinois  
21 Environmental Protection Agency.

22 Q. How long have you held that position?

23 A. That position I have been at since April of 1982.

24 Q. Were you with the Agency prior to that?

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1 A. Yes, I was, for approximately two years.

2 Q. What did you do at that time?

3 A. I was in the Groundwater Management Section at the main  
4 office.

5 Q. What are your duties as a field inspector?

6 A. Well, I have several different duties. I do inspections  
7 of permitted landfills and also unpermitted solid waste site  
8 disposal sites that we get complaints about. I also do hazardous  
9 waste facility inspections, and I am the designated criminal  
10 investigator for those situations where we may go criminal on  
11 prosecution of environmental crime.

12 Q. In your years as a field inspector, approximately how  
13 many inspections do you believe you may have conducted?

14 A. Over 900 inspections.

15 Q. What is your educational background?

16 A. I have a degree in zoology from the University of  
17 Illinois in Champaign-Urbana.

18 Q. Do you have any post educational training?

19 A. Training in my present job included a two-week course  
20 when I first started back in April of 1982 on how to basically  
21 conduct landfill inspections. I have had a number of other

22 training opportunities, with amongst other things annual safety  
23 training. I have had on-the-job training for the hazardous waste  
24 investigations. I have been to several training seminars on

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1 criminal investigation, including a two-week course down at the  
2 Federal Law Enforcement Training Center a couple of years ago.

3 Q. Okay. Are you familiar with the facility known as  
4 Birmingham/Yocum Number 1?

5 A. Yes, I am.

6 Q. Can you tell me -- there are two sites involved in this  
7 consolidated administrative citation action. Can you tell me  
8 which of the two Number 1 is?

9 A. The Number 1 site is the site in Birmingham itself.  
10 Basically it is two nearly adjacent lots inside town.

11 Q. Okay. Who owns that property?

12 A. According to the records in the courthouse, Lesslie  
13 Yocum, Sandra Yocum, and at this point I can't remember all of  
14 the childrens' names. I am sorry. It was Candy, and I am --

15 Q. If I told you it was Rick, Candy, Laura, and Shawna,  
16 would that sound correct to you?

17 A. Yes, that sounds correct. I am sorry.

18 Q. Approximately how many inspections do you believe you  
19 have done at the Yocum Number 1 site?

20 A. Six times I have been there.

21 (Whereupon a document was duly marked for purposes of

22 identification as Hearing Exhibit 1 as of this date.)

23 MS. RYAN: Okay. I have to apologize again. I am showing  
24 the witness what has been marked as Exhibit Number 1. I had

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1 hoped to get color prints for everybody but, again, the printers  
2 were off line so I have photocopies. The one marked in blue is  
3 for the Board. It is a better copy than the others that I have  
4 given to you to follow along with.

5 Q. (By Ms. Ryan) Do you recognize that Exhibit Number 1?

6 A. Yes, I do.

7 Q. What is that?

8 A. It is a copy of the inspection report I completed after  
9 the January 11th of 2001 inspection at the facility.

10 Q. Have you had a chance to look through the entire  
11 document?

12 A. Yes, I did, just now.

13 Q. Is that a fair, accurate, and complete copy of your  
14 report?

15 A. Yes, it is.

16 Q. Can you describe the Yocum Number 1 property generally?

17 A. It is two different properties inside the unincorporated  
18 town of Birmingham. They are both fenced off. There are public  
19 roads running along beside them. So they are visible from off  
20 site. The southern part of the site was a fenced off area that

21 had a couple of old sheds and an old building that is collapsing.  
22 I don't know what the building was used for prior to the  
23 inspection -- or to it collapsing. Obviously, it is not used for  
24 anything now.

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1           There were a number of vehicles parked on that site, along  
2 with other junk and some demolition waste. The northern -- it is  
3 actually kind of northwest of the part where the most vehicles  
4 were. This was another fenced area that had a smaller number of  
5 vehicles parked on it, along with a house trailer and a shed.  
6 Most of the times I had been there, there were goats in there.

7           Q.   Who took the photos that are attached to Exhibit Number  
8 1?

9           A.   I took those photos.

10          Q.   Can you describe generally what they show?

11          A.   I will have to refresh my memory and go through on a  
12 photo by photo basis. Let's see. Excuse me just a second.

13                   (The witness reviewing photos.)

14          A.   Okay. Photos -- well, they have long numbers on them.  
15 I will refer to them by the number at the end of the long number.  
16 But one through seven are pictures from the southern part of the  
17 site showing the materials that are there, including vehicles and  
18 demolition waste and other junk.

19                   You know, comparing those photos to previous photos that I  
20 had taken of the site and also looking at the condition of the

21 vehicles, it was apparent that these vehicles there had not moved  
22 since the previous inspection. And so that is significant in  
23 whether they are legally considered abandoned or not. Many of  
24 them were not in usable condition. They had either tires missing

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1 or flat tires. They were surrounded by snow. There were no  
2 tracks leading up to where they were.

3 As I said, comparing them to previous photographs of the  
4 site, they had not moved. Photo Number 1 shows a pile of  
5 demolition waste that was sitting there at the site. It is down  
6 in the lower right-hand corner of the --

7 MR. REHN: Mr. Hearing Officer, I guess I just make an  
8 objection.

9 HEARING OFFICER LANGHOFF: What grounds?

10 MR. REHN: I think he is making -- he has done it a couple  
11 of times here. I just want to clarify. A big part of our case  
12 and our defense is mainly that this stuff is not junk or  
13 demolition waste. I mean, that's a legal conclusion with a legal  
14 definition in the Environmental Protection Act. I would ask,  
15 just so the record is clear, that he identify stuff by what it  
16 is, as opposed to a legal conclusion as to what is in the  
17 photographs.

18 HEARING OFFICER LANGHOFF: Ms. Ryan?

19 MS. RYAN: I don't have anything further.

20 HEARING OFFICER LANGHOFF: I am going to sustain that  
21 objection and ask the witness to, when you can, describe the  
22 items.

23 THE WITNESS: Okay. In photo Number 1 in the lower  
24 right-hand corner, it shows a pile of weathered dimensional

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1 lumber that was at the site. It had been there during previous  
2 inspections.

3 For the vehicles, I mean, there were various vehicles,  
4 trucks. There were two school buses. They are shown in  
5 photograph Number 1. In my inspection report I made site plans  
6 showing where the trucks were, where the cars were. I don't know  
7 if you want me to go through individual vehicles and refer to  
8 them.

9 Q. (By Ms. Ryan) No, that's fine.

10 A. Okay.

11 Q. Besides the vehicles and the weathered dimensional  
12 lumber that you mentioned, are there any other types of materials  
13 depicted in these photographs?

14 A. There are some car parts that I wouldn't characterize as  
15 complete vehicles that are also shown and a few other items.  
16 This site -- most of the items on site were, in fact, vehicles  
17 and that dimensional lumber. So there were -- it also had snowed  
18 quite a bit, so the photographs don't show, and I could not see  
19 if there were any small items on the ground for the most part.

20 Q. Do these photographs attached to Exhibit Number 1  
21 accurately depict what you saw at the Yocum 1 site that day?

22 A. Yes, they do.

23 Q. What violations did you cite in your inspection report,  
24 if any?

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1 A. Section 21(p)(1) of the Environmental Protection Act,  
2 and Section 21(p)(7) of the Environmental Protection Act.

3 Q. When was this report generated?

4 A. It was -- I don't know the exact date. It was finished  
5 on -- it was started within minutes after I got back, because  
6 they were digital photographs, and in order to be certain that  
7 the digital photographs don't -- that nothing happens to them, I  
8 have to copy them on to our network, the computer network, as  
9 expeditiously as possible. So I always start doing that so that  
10 they get backed up and we don't have a -- we don't try and use  
11 the excuse that the computer lost the files or anything.

12 Q. Do you have an estimate for when the report was  
13 finished?

14 A. Within a week after the time I was out there.

15 (Whereupon a document was duly marked for purposes of  
16 identification as Hearing Exhibit 2 as of this date.)

17 Q. I would like to turn your attention to what has been  
18 marked for identification as Exhibit Number 2.

19 A. Okay.

20 Q. First, let me ask you, are you familiar with the site

21 known as Yocum Number 2?

22 A. Yes, I am.

23 Q. Where is that property located?

24 A. It is located northeast of the unincorporated town of

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1 Birmingham. Actually, I believe it is adjacent to the county

2 line at the north edge.

3 Q. Who owns that property?

4 A. According to the records in the courthouse, it was

5 Lesslie and Sandra Yocum.

6 Q. How many inspections have you conducted at that

7 property?

8 A. Six inspections.

9 Q. Do you recognize Exhibit Number 2?

10 A. Yes, I do.

11 Q. What is it?

12 A. It is a copy of the inspection report I completed after

13 doing this inspection.

14 Q. Is that a fair, accurate and complete copy of your

15 report?

16 A. Yes, it is.

17 Q. Can you describe this property generally?

18 A. It is property that -- the Yocums live at the east edge

19 of the property. It is fairly expansive property with some open  
20 oak woodlands and farm fields and other open areas on it. I  
21 have -- other than to go up to the Yocums' door to knock and find  
22 out if they were home, I have never been on the property. So my  
23 observations of what is there is based on what I could see from  
24 off site.

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1 Q. Who took the photographs that are attached to Exhibit  
2 Number 2?

3 A. I did.

4 Q. You took those from off site?

5 A. Yes.

6 Q. What do those photographs show?

7 A. On this site there are numerous vehicles. There is farm  
8 equipment. There is some weathered dimensional lumber in a pile  
9 out near the road. There are some other metal objects, farm  
10 equipment, and tanks and that type of thing. There are also some  
11 pipes there on the west -- it would be the southwest corner of  
12 the property. There is an old mobile home also.

13 Q. Is the weathered dimensional lumber pictured in any of  
14 your photographs?

15 (The witness reviewing the photographs.)

16 A. I am sorry. It would be in picture 11. This photocopy  
17 is not terribly clear.

18 Q. Do you recall where in photograph 11 you had seen that  
19 material?

20 A. It was near a bin that would be over to the right of the  
21 photograph. So it is over on the right-hand side.

22 Q. Is the location of that material indicated elsewhere in  
23 your report?

24 A. On the plan sheet, one of the plan sheets that I did.

18

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1 It would be on the plan sheet. I don't know what number it is.

2 Q. I don't believe they are numbered.

3 A. I apologize for not numbering them. The one that shows  
4 the location of pictures 11, 12, 13 through 17. It is the second  
5 sheet.

6 Q. Okay. Do you recall seeing that material out there that  
7 day?

8 A. I do, yes.

9 Q. When you said that you observed tanks on the property,  
10 can you describe more specifically what you mean by tanks?

11 A. They were small, I would guess, water tanks that had  
12 been -- and potentially gasoline tanks. They probably had been  
13 used in rural areas. They were not buried gasoline tanks. So  
14 they were probably small fuel tanks.

15 Q. What violations did you cite in this report, if any?

16 A. It was Section 21(p)(1) and Section 21(p)(7) of the  
17 Environmental Protection Act.

18 Q. When was this report generated?

19 A. Within a week after the inspection.

20 Q. Does the Illinois EPA keep these reports in the regular  
21 course of its business?

22 A. Yes, they do.

23 MS. RYAN: At this time I would move Exhibits 1 and 2 into  
24 evidence.

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1 HEARING OFFICER LANGHOFF: Any objections?

2 MR. REHN: I have no objection to the photographic section  
3 of the exhibits. I do have objections to the legal conclusions  
4 in the documents concerning whether material was waste or not,  
5 similar to my previous objection.

6 I also -- I don't have any objection to the diagram  
7 portion, except for I think the diagram portion, at least on one  
8 of them that we just looked at, did again label something as  
9 demolition waste and I object to the legal conclusions.

10 HEARING OFFICER LANGHOFF: I am going to overrule your  
11 objection. I am going to admit Exhibit Numbers 1 and 2 at this  
12 time.

13 (Whereupon said documents were duly admitted into  
14 evidence as Exhibits 1 and 2 as of this date.)

15 Q. (By Ms. Ryan) Mr. Zierath, have you been to either one  
16 of the properties since January 11th of 2001?

17           A.    I went to both properties last Wednesday, which would be  
18 the 16th of January of 2002.

19           Q.    How does the condition of the property last Wednesday  
20 compare to the condition in these photographs from a year ago?

21           A.    The Number 1 site, many of the vehicles that are shown  
22 in the photographs at the Number 1 site had been removed from  
23 that site.  In the south portion of that site there were 11  
24 vehicles, including the two school buses, still there.  And in

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1 the northwest portion there were three vehicles that were there  
2 still.  There was no dimensional lumber.  That pile had been  
3 removed some time before.

4           Q.    The Number 2 site, had the condition of that property  
5 changed since a year ago?

6           A.    There were many fewer vehicles and other materials out  
7 near the road.  Mr. Yocum chose not to let me on, so I don't know  
8 what is beyond what I could see from the road.  There are still  
9 numerous vehicles observable from the road along with other  
10 materials, other metal objects.  And the mobile home is still at  
11 the site in the southwest area.

12           In addition, there is a wooded ravine there and there was a  
13 bunch of -- there were objects like televisions and that type  
14 that had been apparently dumped down there by parties I don't  
15 know.  I don't know who did that.

16           Q.    Do you know, is anyone living in the mobile home that

17 you described?

18 A. No, it is not in a condition that it would be.

19 Q. And you can see that from the road?

20 A. Yes.

21 MS. RYAN: Okay. Thank you. I don't have anything  
22 further.

23 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Ryan. Mr.  
24 Rehn?

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1 MR. REHN: Yes.

2 CROSS EXAMINATION

3 BY MR. REHN:

4 Q. In your direct examination when you were talking about  
5 the property that was located in Birmingham, which I think is  
6 property Number 1, you indicated that there were a number of  
7 vehicles, and then I think you said that they were not in -- and  
8 then I think your terms were usable condition. Do you remember  
9 that testimony?

10 A. Yeah.

11 Q. When you say usable condition, is that -- were you  
12 saying that they were not drivable?

13 A. Because the standard for whether it is an abandoned  
14 vehicle is whether it is in operable condition and has been moved  
15 in a week's time, what we look for is are the vehicles -- do they

16 appear to be drivable at that time. And so there were vehicles  
17 that didn't have tires. There were vehicles that were not all  
18 there. Those would be not operable and they could not be driven.

19 So that was -- at times you look for whether there are  
20 weeds around them and that type. Of course, it had snowed in  
21 this case and so any weeds had been knocked down. So that was  
22 not a way to find out if the vehicle had been moved for a week or  
23 not.

24 Q. You don't have any knowledge as to whether Mr. Yocum

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1 intended to use those cars for anything or not, do you?

2 A. We received a letter, I believe it was from you, that  
3 listed some vehicles that he intended to keep. That is the only  
4 information that I have received as to what he intended to do  
5 with any of those vehicles.

6 Q. I mean, what I am saying is when you drive by a property  
7 and take a look from the roadway, you can tell whether a vehicle  
8 has been driven or not within the recent history; isn't that  
9 correct?

10 A. You can usually tell if a vehicle is in a condition  
11 where it could have been driven.

12 Q. A lot of the vehicles you saw were in a condition where  
13 they had not been driven in a while; is that correct?

14 A. That's correct.

15 Q. And that's what you based your decision on as to making

16 a label for these vehicles as being usable vehicles; is that  
17 correct?

18 A. That's correct, drivable vehicles.

19 Q. As far as -- I think you said dimensional lumber. I am  
20 not familiar with that term. What does dimensional mean when you  
21 put that with the word lumber?

22 A. Dimensional lumber is just boards that have been sawed  
23 to whatever dimension.

24 Q. So --

23

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1 A. Two by fours are dimensional lumber.

2 Q. When you identified the lumber at the different sites,  
3 and I think you saw lumber at both Site 1 in Birmingham and  
4 lumber at Site 2, closer to Mr. Yocum's residence; is that  
5 correct?

6 A. That's correct.

7 Q. When you identified this as dimensional lumber, you had  
8 no way of knowing whether Mr. Yocum intended to use that lumber  
9 or not?

10 A. I don't know if he did, no.

11 Q. And you couldn't tell if it was good lumber or bad  
12 lumber. All you knew was that it was lumber sitting outdoors in  
13 a stack; is that correct?

14 A. It was weathered to the extent to where it didn't look

15 like it had just been purchased.

16 Q. Okay.

17 A. It was old dimensional lumber.

18 Q. But you would agree, and if you have made 900 visits  
19 over your time with the EPA, that farmers and/or people out in  
20 the country do use old lumber around the farm; is that correct?

21 A. Some people do, yes.

22 Q. I think you also identified metal objects, pipes, and  
23 old cars on the property that was Yocum Number 2?

24 A. Yes.

24

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1 Q. Similar to the lumber, you don't have any idea one way  
2 or the other as to whether Mr. Yocum intended to use the old pipe  
3 or metal on that property; is that correct?

4 A. That's correct.

5 Q. You don't know whether Mr. Yocum purchased those items  
6 for his own use or somebody brought them out and dumped them out  
7 there; is that correct?

8 A. That's correct.

9 MR. REHN: I don't have anything further.

10 HEARING OFFICER LANGHOFF: Thank you.

11 MS. RYAN: I just have one quick question.

12 REDIRECT EXAMINATION

13 BY MS. RYAN:

14 Q. You said that you were a field inspector since 1982?

15 A. 1982, yes.

16 Q. Okay. In that time have you ever seen a similar piece  
17 of property where old vehicles and old weathered wood has been  
18 collected that the owner intended to use at some time in the  
19 future?

20 A. Yes, I have.

21 Q. Have you ever had a problem as a field inspector with  
22 one of these types of sites?

23 A. Yes.

24 Q. Can you describe that for me?

25

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1 A. We were involved with one on the north edge of  
2 Springfield. The gentleman who owned it had, in fact, basically  
3 parked any vehicle that he had ever owned on the property with  
4 the intention, according to him, of fixing them up and selling  
5 them in the future. He died recently. He was, I believe, 75 at  
6 the time.

7 He had not fixed up any of the vehicles that we were aware  
8 of prior to that, even though we have been involved with him for  
9 over a decade. He also had all sorts of lumber that he had  
10 dumped out there. He eventually had that hauled off because he  
11 realized that he was not going to use it. And he had other  
12 material, other things at the site also that he claimed that he  
13 intended to use, but had never gotten around to.

14 Q. Okay. And what happened to all of this material when he  
15 died?

16 A. His children are dealing with trying to get it -- most  
17 of the vehicles hauled off for scrap and trying to figure out  
18 what to do with all of the rest of the stuff.

19 MS. RYAN: Thank you.

20 HEARING OFFICER LANGHOFF: All right. Anything further,  
21 Ms. Ryan?

22 MS. RYAN: No.

23 HEARING OFFICER LANGHOFF: Mr. Rehn?

24 MR. REHN: Just briefly.

26

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1 RECROSS EXAMINATION

2 BY MR. REHN:

3 Q. I am assuming that in your 900 site inspections you have  
4 also come across people who have indicated that they intended to  
5 use vehicles on their property that, in fact, did use those  
6 vehicles on their property or fix them up?

7 A. Because of the fact that we don't tend to go out if  
8 there is only one or two vehicles, I don't recall going to any  
9 that had a large number of vehicles where they fixed up all of  
10 them. So I don't -- none come to mind. Obviously, people fix up  
11 old vehicles all of the time. So if you have one or two that you  
12 intend to do, you may deal with them.

13 MR. REHN: I don't have anything further.

14 HEARING OFFICER LANGHOFF: Thank you. Is that all, Ms.  
15 Ryan?

16 MS. RYAN: That's all we have.

17 HEARING OFFICER LANGHOFF: Thank you, Mr. Zierath.

18 (The witness left the stand.)

19 HEARING OFFICER LANGHOFF: All right. Anything further,  
20 Ms. Ryan?

21 MS. RYAN: No. We rest.

22 HEARING OFFICER LANGHOFF: All right. Thank you. Mr.  
23 Rehn?

24 MR. REHN: We call Lesslie Yocum.

27

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1 HEARING OFFICER LANGHOFF: You can sit right there if you  
2 would like, Mr. Yocum.

3 Would you please swear him in.

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

5 L E S S L I E Y O C U M,

6 having been first duly sworn by the Notary Public, saith as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. REHN:

10 Q. Would you state and spell your name for the record.

11 A. Lesslie Yocum. It is L-E-S-S-L-I-E, Y-O-C-U-M.

12 Q. And, Lesslie, where do you live?

13 A. Rural Route 3, Plymouth, Illinois.

14 Q. What do you do for a living?

15 A. Well, I do a little farming and I work at Yetter's,  
16 Yetter Manufacturing.

17 Q. What do you do at Yetter Manufacturing?

18 A. I am a maintenance man.

19 Q. And you heard some testimony here earlier today by the  
20 State inspector. And I am probably going to mess up the  
21 pronunciation. Mr. Zierath, I believe, was his name. Do you  
22 have an ownership interest in the properties that he was talking  
23 about today?

24 A. Yes, I do.

28

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1 Q. And do you own items that are on those properties that  
2 he was talking about today?

3 A. Yes, I do.

4 Q. Generally speaking, without getting into the specifics  
5 of the exhibits he went into, there were a number of things  
6 identified including lumber, old vehicles, and piles of metal.  
7 Do you remember that testimony?

8 A. Uh-huh.

9 Q. Okay. You have to say yes or no for the record.

10 A. Oh.

11 Q. We will try that again with a yes or a no.

12 HEARING OFFICER LANGHOFF: Was that a yes, Mr. Yocum?

13 THE WITNESS: Yes.

14 HEARING OFFICER LANGHOFF: All right. Thank you.

15 MR. REHN: That will save everyone the time of me trying to  
16 remember my question.

17 Q. (By Mr. Rehn) In regards to the lumber on what was  
18 called Yocum Number 1, which is the property in Birmingham, do  
19 you remember there being lumber on that property on the day of  
20 the inspection that we were talking about earlier here?

21 A. Yes, I do.

22 Q. What were you going to do with that lumber?

23 A. I was going to build a garage.

24 Q. Where were you going to build the garage?

29

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1 A. Where my house was, till it burnt down.

2 Q. When you say where your house was until it burnt down,  
3 where would that be?

4 A. Well, it is -- it would be on the first city block. The  
5 chimney is still standing.

6 Q. The first city block of Birmingham?

7 A. Yeah.

8 HEARING OFFICER LANGHOFF: Mr. Rehn, is that -- just for  
9 the record, is that adjacent to Birmingham Number 2?

10 THE WITNESS: Number 1.

11 HEARING OFFICER LANGHOFF: Number 1. Okay. I am sorry.

12 THE WITNESS: Yeah, it is not -- well, there is two parcels  
13 they have got joined there.

14 HEARING OFFICER LANGHOFF: Okay. Thank you. I am sorry.

15 MR. REHN: I don't know if that came out clear in his  
16 testimony or not. But Birmingham Number 1 is actually two little  
17 fields that are in the -- we will call it the City of Birmingham,  
18 using the term city very loosely there.

19 HEARING OFFICER LANGHOFF: Okay.

20 Q. (By Mr. Rehn) In regards to -- I think there was some  
21 buses on that property. Do you remember the buses?

22 A. Yes.

23 Q. Are they still on that property?

24 A. Yes.

30

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1 Q. Where did you get those buses?

2 A. I bought one at a sale over by Plymouth and one by West  
3 Point.

4 Q. Why did you buy those buses?

5 A. For storage.

6 Q. What do you use those buses for?

7 A. Storage.

8 Q. What do you store inside those buses?

9 A. Oh, my -- a lot of my machinery parts and some  
10 miscellaneous stuff like my chain saw, and one thing and another.  
11 Hydraulic cylinders and hoses.

12 Q. So do you have a storage shed on that property, on the  
13 property in Birmingham?

14 A. No.

15 Q. Do you use the buses to --

16 A. There is one little shed adjacent to the property, yes,  
17 over there.

18 Q. Are you basically using the buses like a storage shed?

19 A. Yes.

20 Q. Do you store all of your engine parts and/or scrap metal  
21 inside the buses?

22 A. No.

23 Q. Do you store a number of metal parts outside of the  
24 buses?

31

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1 A. Yeah. Well, yeah, I guess. There would be end pipe or  
2 steel gates, hog panels, cow panels.

3 Q. Actually, you have a number of vehicles on your  
4 property. Right now the vehicles, I believe, are on the property  
5 outside of the City of Birmingham, which is Yocum Number 2; is  
6 that correct?

7 A. Yes.

8 Q. Do those vehicles include pickup trucks?

9 A. Yes.

10 Q. And do some of those pickup trucks, in fact, have metal

11 materials in the beds of the pickup trucks?

12 A. Yes.

13 Q. Do you use that -- do you use your pickups, then, also  
14 for storage of your property?

15 A. Yes.

16 Q. Okay. Where did you get all of the property that you  
17 keep in the beds of your pickup trucks and/or inside the bus, the  
18 buses?

19 A. At sales.

20 Q. When you say "at sales," what kind of sales are you  
21 talking about?

22 A. Farm sales.

23 Q. All right.

24 A. Mainly.

32

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1 Q. Do they give you this stuff at farm sales, or do you buy  
2 them at farm sales?

3 A. No, I buy it.

4 Q. Why do you buy that stuff?

5 A. For future use.

6 Q. When you say "future use," can you be more specific?  
7 What are you going to use the material that you purchase at the  
8 farm sales for?

9 A. Well, a lot of the iron that I purchased I use for -- I  
10 build -- I built two or three trailers.

11 Q. When you say built trailers, what kind of trailers are  
12 you building?

13 A. I built a 16-foot flatbed. I built a hay mover, a  
14 hauler. And I am working on another hay hauler now.

15 Q. All right. What about all of the vehicles that you have  
16 on your properties? What are you going to do with those  
17 vehicles?

18 A. Well, some of them when I -- I have got a few of them  
19 that when I retire I would like to -- I would like to just  
20 restore.

21 Q. And what -- it sounds like by your statement there  
22 implicitly there are some of them that you do not intend to  
23 restore; is that correct?

24 A. Well, some of them I use for parts for my truck that I

33

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1 use on the farm.

2 Q. I mean, are all of the vehicles that you have on that  
3 property either intended to be restored or to be used by you for  
4 the restoration of other vehicles?

5 A. Yes, sir.

6 Q. How did you get ownership of all of these vehicles?

7 A. Well, I bought them.

8 Q. Where did you buy these vehicles at?

9 A. God, all over.

10 Q. It was not just at one time?  
11 A. No.  
12 Q. It was not just at one place?  
13 A. No.  
14 Q. Was it at some farm auctions?  
15 A. Some of them, yes.  
16 Q. Did you buy them from other sources also?  
17 A. Yes, off individuals.  
18 Q. Did you bring any of the vehicles to your property for  
19 the purpose of leaving it there and not using it?  
20 A. No.  
21 Q. What about the lumber that was on your property? Did  
22 you ever bring any lumber to your property for the purpose of  
23 leaving it there not to use it?  
24 A. No.

34

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1 Q. What about the metal and scrap metal on your property?  
2 Did you intend to use that, the metal that you brought to your  
3 property?

4 A. Yes.

5 (Whereupon documents were duly marked for purposes  
6 of identification as Respondent's Group Exhibit 1 as of  
7 this date.)

8 Q. I am going to go ahead and put in front of you  
9 Respondent's Exhibit Number 1, and ask that you identify this for

10 me?

11 A. It is sales tickets from sales.

12 Q. All right. They are in a blue box; is that correct?

13 A. Yes.

14 Q. You say sales tickets from sales. Are these tickets  
15 relating to the property that is on your property that we were  
16 just talking about?

17 A. Yes.

18 Q. And that being metal parts, wagons, cars, trucks, wire,  
19 different items that you have purchased --

20 A. Yes.

21 Q. -- and brought to your property?

22 A. Yes.

23 Q. Okay. I know it is tough to do, because we talk this  
24 way all of the time, but try to wait until I get my question out

35

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1 before you give the answers.

2 A. Okay.

3 Q. It is a lot easier for her, and it looks better on the  
4 record.

5 I will just look at one of these cards, and I think it says  
6 lot number, drill, and then there is a line that says 1750. Can  
7 you tell me what that means?

8 A. It is a grain drill.

9 Q. A grain drill?  
10 A. A grain drill, yeah.  
11 Q. Where did you buy a grain drill at?  
12 A. At a sale.  
13 Q. Why did you buy a grain drill?  
14 A. Well, to plant my wheat and oats.  
15 Q. Is that grain drill still on your property?  
16 A. Yes.  
17 Q. Are most of the items that are listed on these sale  
18 exhibits still on your property?  
19 A. Yes.  
20 Q. And are those items things that you have purchased for  
21 your use at a later date?  
22 A. Yes, sir.  
23 MR. REHN: We would just go ahead and move Group Exhibit  
24 Number 1, which is a number of sales tickets.

36

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1 MS. RYAN: No objection.  
2 MR. REHN: We want our box back, though.  
3 HEARING OFFICER LANGHOFF: I will admit -- what is that  
4 called, labeled?  
5 MR. REHN: It is Respondent's Exhibit Number 1.  
6 HEARING OFFICER LANGHOFF: Okay. Respondent's Exhibit  
7 Number 1 will be admitted.  
8 (Whereupon said documents were admitted into evidence as

9 Respondent's Group Exhibit 1 as of this date.)

10 MR. REHN: Thank you.

11 (Whereupon documents were duly marked for purposes of

12 identification as Respondent's Group Exhibit 2 as of this

13 date.)

14 Q. (By Mr. Rehn) Okay. I want to hand you what has been

15 labeled as Respondent's Exhibit Number 2, and ask that you

16 identify that?

17 A. That is titles to vehicles.

18 Q. When you say the titles to the vehicles, is that the

19 vehicles that we have been talking about this morning?

20 A. Yes.

21 Q. And those are the vehicles that are located at the

22 properties, either the Yocum 1 or Yocum 2?

23 A. Yes, sir.

24 Q. And how did you get these titles?

37

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1 A. When I purchased the vehicles.

2 MR. REHN: We will go ahead and move that Respondent's

3 Exhibit Number 2 be admitted into evidence.

4 MS. RYAN: No objection.

5 MR. REHN: Just --

6 HEARING OFFICER LANGHOFF: I --

7 MR. REHN: Go ahead. I am sorry.

8 HEARING OFFICER LANGHOFF: I will admit -- well, why don't  
9 you go ahead first.

10 MR. REHN: Well, just to clarify, what we are going to do  
11 by agreement is these are the original titles, and I need to make  
12 copies of them. I will make copies of the titles and send them  
13 to you and I will also send them to Ms. Ryan.

14 MS. RYAN: Thank you.

15 MR. REHN: We will make copies of the front and the back of  
16 them. I believe there is somewhere over 100 titles in here.

17 HEARING OFFICER LANGHOFF: Okay. Let the record reflect  
18 that I am going to admit Respondent's Exhibit Number 2 subject to  
19 the parties agreement.

20 (Whereupon documents were admitted into evidence as  
21 Respondent's Group Exhibit 2 as of this date.)

22 HEARING OFFICER LANGHOFF: Can I see that for a second  
23 first?

24 MR. REHN: Yes.

38

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1 HEARING OFFICER LANGHOFF: Just for the record, this is a  
2 red cellophane-type plastic large envelope with at least two  
3 inches of titles, Illinois, it looks like, the State of Illinois  
4 certificate of titles in it, which has been represented to be  
5 containing over 100 titles. Is that correct?

6 MR. REHN: That is correct.

7 HEARING OFFICER LANGHOFF: Okay. How many vehicles are on

8 the two properties, Birmingham 1 and 2?

9 Are you going to get to that, Ms. Ryan?

10 MS. RYAN: I was.

11 HEARING OFFICER LANGHOFF: I want to make sure that only  
12 the relevant titles are copied and forwarded to the Board. But,  
13 for the record, there are over 100 titles in this Exhibit Number  
14 2. Okay. Thank you.

15 MR. REHN: All right.

16 Q. (By Mr. Rehn) Those titles -- we will just go ahead and  
17 follow the lead of the Hearing Officer. Are these the titles to  
18 the vehicles that are located on the properties in question?

19 A. Yes.

20 Q. Are there titles for every -- do you have a title for  
21 every vehicle that is on your property?

22 A. I have got titles for pretty near every one of them that  
23 I have got. There is probably a dozen that I lost in the fire  
24 when my house burnt.

39

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1 Q. Other than the dozen or so that you have lost -- well,  
2 how about if I start it this way. I think we estimated that  
3 there is somewhere between 100 and 110 titles in this envelope;  
4 is that correct?

5 A. Yes.

6 Q. Does that represent almost all of the cars that are on

7 the property?

8 A. Yeah.

9 Q. It sounds like there is some titles that you lost in the  
10 fire; is that correct?

11 A. Yes, sir.

12 Q. And other than those titles, are there any other titles  
13 that you are missing of vehicles that are on your property?

14 A. Only the ones that belong to friends.

15 Q. And how many would that be?

16 A. I don't know. Probably maybe eight or ten.

17 Q. Out of all of the vehicles that are on your property,  
18 have any of them been dumped there or left there with no  
19 intention of using the vehicle at a later date?

20 A. No.

21 Q. I will hand you what was marked as Exhibit 1 by the  
22 Complainant. Is that the proper term?

23 MS. RYAN: Uh-huh.

24 Q. (By Mr. Rehn) And ask that you look at the photographs

40

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1 at the back end of this exhibit, and I believe they are labeled  
2 01 through 09.

3 A. Okay.

4 Q. Can you tell me if those photographs show the property  
5 in Birmingham at Yocum 1?

6 A. Yes.

7 Q. Is there anything in those photos that shows something  
8 that you did not intend to use?

9 A. No.

10 Q. And, for instance, just looking at the photo which is  
11 labeled photo Number 1, it looks like there is a couple of buses  
12 in that photograph?

13 A. Yes.

14 Q. Are those the buses that you talked about that you use  
15 for storage of parts?

16 A. Yes, sir.

17 Q. And I think there is also in the lower right-hand corner  
18 of that photograph what was identified as lumber earlier this  
19 morning; is that correct?

20 A. A post pile.

21 Q. Did you intend to use that pile of posts for something?

22 A. Yes, sir.

23 Q. And what did you intend to use that pile of posts for?

24 A. To build fence.

41

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1 Q. Why do you build fence?

2 A. To keep the livestock in.

3 Q. Do you have livestock?

4 A. Yes, sir.

5 Q. What kind of livestock do you have?

6           A.    Well, I have got cattle and I have got sheep.  And my  
7 son has goats.

8           Q.    Would it be fair to say that the remainder of the  
9 photographs mainly show vehicles?

10          A.    Yes.

11          Q.    Are those vehicles that you intended to use either to  
12 restore or use parts of them for restoration?

13          A.    Yes, sir.

14          Q.    Now I will hand you what has been marked as  
15 Complainant's Exhibit Number 2, and ask that you look at the  
16 photographs on the last few pages of that exhibit, and the  
17 photographs are labeled from Number 1 through Number 17.

18          A.    Okay.

19          Q.    If you could take a moment and look at those  
20 photographs.

21          A.    (The witness complied.)

22          Q.    Have you had an opportunity to look at the photographs  
23 in Exhibit Number 2?

24          A.    Yes.

42

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1           Q.    One of the photographs that was identified on direct  
2 examination was photograph Number 11, and that was identified as  
3 having lumber in it.  Do you see lumber in photograph Number 11?

4           A.    Number 11.  Let's see.  Which one is Number 11?

5           MS. RYAN:  On the top.

6 Q. (By Mr. Rehn) Yes, on the top. I don't know if the  
7 pages are numbered.

8 A. No.

9 Q. If you look, there is a photo file name to the left of  
10 each photograph, and the one that has a number of numbers and the  
11 last three digits are 011.

12 A. Okay.

13 Q. That is the photograph that I believe is the one labeled  
14 Number 11.

15 A. (Nodded head up and down.)

16 Q. Do you see any lumber in that photograph?

17 A. No, sir.

18 Q. If there would be lumber in that photograph, did you  
19 have any lumber on Yocum Number 2?

20 A. Yeah, there is the posts, and I had a gate, and that's  
21 about all I can think of right offhand.

22 Q. Is all the lumber that you have on Yocum Number 2 lumber  
23 that you intend to use around your property?

24 A. Yes.

43

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1 Q. What would you use lumber for on your property besides  
2 I think you said posts earlier for fence? Is there any other use  
3 for lumber on your property?

4 A. Yes.

5 Q. What other use would you have for lumber?

6 A. To build a shed.

7 Q. Have you started to build any sheds on your property?

8 A. Yes.

9 Q. And what stage of construction are you in right now?

10 How much of it is built?

11 A. Well, I got the poles up, and I did have some trusses up  
12 and the wind took them down. So now I have got to put them back  
13 up.

14 Q. Okay. And then in the other photographs that you looked  
15 at in Group Exhibit Number 2, do they mainly show, just as the  
16 State's inspector identified, metal and vehicles; is that  
17 correct?

18 A. Yes.

19 Q. And those are all metal and vehicles that you intend to  
20 use?

21 A. Yes.

22 Q. When you say you intend to use these, when do you intend  
23 to fix up these vehicles or start working on or restoring  
24 vehicles?

44

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1 A. Well, I am going to retire. When I retire is when I am  
2 going to restore the older vehicles. I have got a few I would  
3 like to restore. And for now I just work on the ones that I use  
4 around the farm.

5 Q. When you say work on the ones you have around the farm,  
6 are you using some of the vehicles for parts right now?

7 A. Yes.

8 Q. Why would you use different vehicles that you have for  
9 parts at this time?

10 A. Because there are several years that the parts will  
11 interchange that I can use on my truck that I use on the farm.

12 Q. And do you intend to spend more time working on these  
13 vehicles that you have around the farm after you retire?

14 A. Yes, sir.

15 Q. Would it be fair to say that the vehicles are like a  
16 retirement plan or project for you?

17 A. Yes.

18 MR. REHN: I don't have anything further.

19 HEARING OFFICER LANGHOFF: Thank you. Ms. Ryan?

20 MS. RYAN: I just have a couple of quick questions.

21 CROSS EXAMINATION

22 BY MS. RYAN:

23 Q. How old are you, Mr. Yocum?

24 A. I am 52.

45

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1 Q. Do you know when you plan to retire?

2 A. I am going to retire when I am 62.

3 MS. RYAN: Okay. That's all I have.

4 HEARING OFFICER LANGHOFF: All right. Anything further,  
5 Mr. Rehn?

6 MR. REHN: No.

7 HEARING OFFICER LANGHOFF: Okay. Thank you.

8 THE WITNESS: I wish I had a lot better retirement plan,  
9 but that's the way it goes.

10 HEARING OFFICER LANGHOFF: Do you have any other witnesses  
11 or evidence, Mr. Rehn?

12 MR. REHN: No, we do not.

13 HEARING OFFICER LANGHOFF: Okay. Thank you. Ms. Ryan,  
14 anything in rebuttal?

15 MS. RYAN: No.

16 HEARING OFFICER LANGHOFF: Thank you. At this point I  
17 would like to go off the record to discuss the availability of  
18 the record and to discuss the schedule for the submission of  
19 briefs. So we are off the record.

20 (Discussion off the record.)

21 HEARING OFFICER LANGHOFF: We have just had an  
22 off-the-record discussion regarding the filing of post hearing  
23 briefs. The parties have agreed to a briefing schedule. I will  
24 go ahead now and read that schedule into the record.

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1 The transcript of these proceedings will be available from  
2 the court reporter by February 1st of 2002. I will establish a  
3 short public comment period of 14 days.

4           The Agency's brief will be due by February 15th of 2002,  
5 and the mailbox rule will apply. The respondent's brief will be  
6 due by March 4th of 2002. Again, the mailbox rule will apply.

7           The transcript of this hearing is usually put on the  
8 Board's web site within a few days after its availability. I  
9 would just like to note that our web site address is  
10 [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

11           Any post hearing comments must be filed in accordance with  
12 Section 101.628 of the Board's Procedural Rules. Public comments  
13 must be filed within 14 days, as I have stated before. That date  
14 is February the 5th of 2002. The mailbox rule set forth at 35  
15 Ill. Adm. Code 101.102(d) and 101.144(c) will apply to any post  
16 hearing comments.

17           All right. Anything further from the parties before we  
18 conclude?

19           MS. RYAN: No.

20           MR. REHN: No.

21           HEARING OFFICER LANGHOFF: Okay. Thank you. At this time  
22 I want to note again for the record that there are no members of  
23 the public present.

24           I am required to make a statement as to the credibility of

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1 witnesses testifying during this hearing. This statement is to  
2 be based upon my legal judgment and experience. And,

3 accordingly, I state that I have found all of the witnesses  
4 testifying to be credible. Credibility should not be an issue  
5 for the Board to consider in rendering a decision in this case.

6 At this time I will conclude the proceedings. It is  
7 Tuesday, January 22nd of 2002, and it is approximately 10:10 in  
8 the morning. We stand adjourned.

9 Thank you all for your partition, and I wish everyone to  
10 have a good day.

11 MS. RYAN: Thank you.

12 MR. REHN: Thank you.

13 (Hearing exhibits were retained by  
14 Hearing Officer Langhoff.)

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C E R T I F I C A T E

I, DARLENE M. NIEMEYER, a Notary Public in and for the County of Montgomery, State of Illinois, DO HEREBY CERTIFY that the foregoing 48 pages comprise a true, complete and correct transcript of the proceedings held on the 22nd of January A.D., 2002, at 102 South Congress, Rushville, Illinois, in the case of Illinois Environmental Protection Agency v. Lesslie Yocum, et al., in proceedings held before Hearing Officer Steven C. Langhoff, and recorded in machine shorthand by me.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my Notarial Seal this 24th day of January A.D., 2002.

Notary Public and  
Certified Shorthand Reporter and  
Registered Professional Reporter

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