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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
vs.) AC 04-51
MICHAEL MORETON,) (IEPA No. 83-04-AC)
Respondent.) (Administrative
Citation)

Proceedings held on July 19, 2006, at 9:46 a.m., at the
City Hall Council Chambers, 208 North 19th Street,
Mattoon, Illinois, before Carol Webb, Hearing Officer.

Reported By: Karen Waugh, CSR, RPR
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APPEARANCES

For the Complainant:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: Ms. Michelle M. Ryan
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

For the Respondent:

BY: Mr. Michael Moreton
PO Box 309
Ashmore, Illinois 61912

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PROCEEDINGS

(July 19, 2006; 9:46 a.m.)

HEARING OFFICER WEBB: We'll go ahead and begin. Good morning. My name is Carol Webb. I'm a hearing officer with the Pollution Control Board. This is AC 04-51, IEPA versus Moreton. It is July 19, 2006, and we are beginning at 10 o'clock a.m. I will note for the record that there are no members of the public present, although we have some EPA interns with us, and Mr. Moreton has his son here with him. Good morning to all of you. Members of the public are allowed to provide public comment if they so choose.

At issue in this case is the EPA's allegation that Respondent violated Sections 21(p)(1) and (p)(7) of the Environmental Protection Act at a site in Ashmore Township, Coles County. You should know that it is the Pollution Control Board and not me that will make the final decision in this case. My purpose is to conduct the hearing in a neutral and orderly manner so that we have a clear record of the proceedings. I will also assess the credibility of any witnesses on the record at the end of the hearing.

This hearing was noticed pursuant to the Act and the Board's rules and will be conducted pursuant to

1 Section 101.600 through 101.632 of the Board's procedural
2 rules. At this time I'd like to ask the parties to
3 please make their appearances on the record.

4 MS. RYAN: Michelle Ryan, Special Assistant
5 Attorney General for the Illinois EPA.

6 HEARING OFFICER WEBB: And, Mr. Moreton,
7 you're here representing yourself; is that correct?

8 MR. MORETON: Yes.

9 HEARING OFFICER WEBB: Okay. Thank you.
10 Ms. Ryan, would you like to make an opening statement?

11 MS. RYAN: Yes. We believe that the
12 evidence today will show that on January 20, 2004, open
13 dumping resulting in litter and the deposition of
14 construction or demolition debris occurred at the Moreton
15 property located at County Road 1380 North and 2330 E
16 north of Ashmore Township and that there are no defenses
17 to these violations.

18 HEARING OFFICER WEBB: Thank you.
19 Mr. Moreton, would you like to make any kind of opening
20 statement before we begin? You're not required to.

21 MR. MORETON: I deny the allegations. That
22 so-called debris was material I hauled in for purpose for
23 construction material, and it wasn't debris. It was good
24 material.

1 HEARING OFFICER WEBB: Okay.

2 MR. MORETON: It came from a local business.

3 HEARING OFFICER WEBB: Okay. Ms. Ryan, you
4 may call your first witness.

5 MS. RYAN: We call Kenneth Keigley.

6 HEARING OFFICER WEBB: Would the court
7 reporter please swear in the witness?

8 (Witness sworn.)

9 KENNETH W. KEIGLEY, produced, sworn and examined
10 on behalf of the Complainant, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. RYAN:

13 Q. Can you state your name for the record?

14 A. Kenneth Wayne Keigley.

15 Q. What is your job?

16 A. I'm a field inspector for the Illinois
17 Environmental Protection Agency.

18 Q. How many years have you been a field
19 inspector?

20 A. Eleven years.

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

22 A. I visit different sites and facilities for
23 the purpose of determining if they are in compliance with
24 the Illinois environmental regulations and the Illinois

1 Environmental Protection Act.

2 Q. Would this include facilities that would be
3 considered open dumps?

4 A. Yes, it does.

5 Q. Over your 11 years as a field inspector, how
6 many inspections do you believe you've conducted?

7 A. Between 13 and 14 hundred.

8 Q. What's your educational background?

9 A. I have a bachelor of arts degree from
10 Governors State University, a bachelor of business
11 administration degree from Eastern Illinois University
12 and significant course work in environmental biology at
13 Governors State University.

14 Q. Do you have any additional training besides
15 that educational background?

16 A. Yes, I do. I have various training courses
17 in procedures to use inspecting sites that were sponsored
18 by the Illinois EPA.

19 Q. Are you familiar with the facility known as
20 the Moreton property north of Ashmore?

21 A. Yes, I am.

22 Q. And although I've just given you the answer,
23 where is that property located?

24 A. It's north of Ashmore, County Road 1380 N, I

1 believe.

2 Q. How many inspections have you conducted at
3 this property?

4 A. Three.

5 Q. I've handed you what I've marked as Exhibit
6 1 for reference. Can you tell me if you recognize that
7 document?

8 A. Yes, I do.

9 Q. What is it?

10 A. It's my inspection report from the
11 inspection conducted on January the 20th of 2004.

12 Q. Can you look through that document for me,
13 please?

14 A. Okay.

15 Q. Is it a fair, accurate and complete copy of
16 your report?

17 A. There are some photos missing.

18 Q. Oh, goody. Which photos are those?

19 A. 1 through 5. 1 through 4.

20 MS. RYAN: All right. Carol, do you have
21 all the photos there? Can you tell, or --

22 HEARING OFFICER WEBB: I don't --

23 MS. RYAN: I'm sure that yours does.

24 THE WITNESS: 12 through 16.

1 MS. RYAN: Hold on a second. Okay. Let me
2 get you a fixed copy.

3 HEARING OFFICER WEBB: Do you want this one?

4 MS. RYAN: Mr. Moreton, do you have all your
5 pictures in there or -- maybe you don't know where the
6 numbers are. Oh, actually, I see what happened.

7 MR. MORETON: These pictures here is a
8 pretty good general --

9 MS. RYAN: Well, I think you may have the
10 wrong numbers in here. See, this is number 15 here. I'm
11 going to take all the photos and reorganize them all, and
12 hopefully we have enough for everybody. I apologize.

13 (Off the record.)

14 Q. (By Ms. Ryan) All there now?

15 A. Yes.

16 Q. Okay. Sorry about that.

17 A. Complete report.

18 Q. Can you describe the property generally?

19 A. It's a rural property, generally flat, on
20 the -- located at County Road 1380 N, I believe it is,
21 and it's at least 75 feet wide and several hundred feet
22 deep.

23 Q. Who took the photographs that are attached
24 to your inspection report?

1 A. I did.

2 Q. And what do they show?

3 A. They show several different piles of used
4 tires, and some of the piles of used tires have scraps of
5 dimensional lumber mixed in with them. Some of the tires
6 were on rims, some were off rims. Some of the tires had
7 water in them in the form of ice. I saw a pile of what
8 appeared to be gravel, concrete and small pieces of
9 asphalt and plastic and wooden pallets and a pile of
10 scraps of dimensional lumber that was weathered and
11 overgrown by vegetation. Most of the piles of tires were
12 overgrown by vegetation. In the -- would be, like, the
13 southwest corner of the property there's a huge pile of
14 apparent wooden ammo boxes, several hundred, and there
15 were several vehicles on the property and several older
16 mobile homes.

17 Q. Could you look at photograph number 1 for
18 me? Can you describe the type of material that's visible
19 in that photograph?

20 A. There's metal, what appears to be an older
21 kitchen stove, pieces of plastic and what appears to be
22 an upholstered vehicle seat.

23 Q. And could you identify which of these
24 photographs depict the dimensional lumber that you were

1 discussing previously?

2 A. Photograph number 4, number 6, number 7, and
3 I think that --

4 Q. And the wooden ammunition boxes, would that
5 be photograph number 14?

6 A. The wooden ammo boxes, that is photograph
7 number 14. I neglected one other thing. There's -- was
8 one area where there was two fifty-five-gallon drums, and
9 there was an area measuring approximately eight foot by
10 four foot that was visibly contaminated with a black oily
11 substance.

12 Q. And which photograph is that?

13 A. That is photograph number 10.

14 Q. And then I believe you mentioned an area of
15 broken concrete and asphalt type material? Which
16 photograph is that?

17 A. Photograph number 16.

18 Q. And it's not very clear from my copy of the
19 photograph, but how much of that photograph can you
20 determine -- can you just kind of describe where that
21 material is in that photograph?

22 A. It's at the approximate northwest corner of
23 the property, not very far off of the county road.

24 Q. Okay. What I was getting at is within the

1 photograph, which portion of this photograph is actually
2 the concrete material that you're talking about?

3 A. It would be the lower right center.

4 Q. Do these photographs accurately depict what
5 you saw at the property on that day?

6 A. Yes, they do.

7 Q. When was this report generated?

8 A. January the 20th of 2004.

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

11 A. Yes, they do.

12 MS. RYAN: I have nothing further at this
13 time.

14 HEARING OFFICER WEBB: Thank you.

15 Mr. Moreton, you have the right to cross examine this
16 witness if you would like.

17 CROSS EXAMINATION

18 BY MR. MORETON:

19 Q. First of all, Mr. Keigley, this is not the
20 first time we've met, is it?

21 A. No, it isn't.

22 Q. Isn't it true that we met prior to this on a
23 complaint from Darrell Cox when he complained about three
24 of my different -- three different properties?

1 A. I -- We did meet at the site. I don't
2 recall just who the complainant was at that time.

3 Q. And this was one of the properties at the
4 time you sent me a report on, did you not?

5 A. Yes, I did.

6 Q. The other two sites, if you can recall, was
7 a station that you found no violations, but you caught
8 the bar owner burning boxes at the time.

9 A. That's correct.

10 Q. And we went down to my shop and there was
11 some oil drops at the front door that you advised me to
12 take care of, and I did, did I not?

13 A. That's correct.

14 Q. But in the course of our initial meeting, do
15 you know -- remember what I do for a living?

16 A. Yes, sir, I do.

17 Q. Could you tell us, please?

18 A. You run a salvage business.

19 Q. I recycle metals?

20 A. Recycle metals, yes.

21 Q. Did you check with the State of Illinois to
22 see if there was a license issued to that property to me?

23 A. No, sir, I didn't.

24 MR. MORETON: I need to keep this. This is

1 my identification card.

2 Q. (By Mr. Moreton) Would you read what's on
3 there, please?

4 A. Says MLS Recycling, 23488 County Road 1380,
5 Post Office Box 309, Ashmore, Illinois, 61912, auto parts
6 recycling.

7 Q. And the UDL number?

8 A. UDL 8964.

9 Q. And it is issued by the Secretary of State's
10 office.

11 A. There is a seal from the Secretary of State.

12 Q. Okay. The only thing you don't know is how
13 long I've been licensed.

14 A. No, sir.

15 Q. But back to your very first photograph, are
16 those recyclable metals?

17 A. Yes, sir, I think they would be.

18 Q. The tires, they come off of cars that's been
19 recycled?

20 A. I don't know.

21 Q. Well, it's a pretty general assumption that
22 they would be off of cars that -- you have to take the
23 tires off to transport them.

24 A. I didn't --

1 Q. To process to ship them to the recycler's.

2 A. I didn't see that happen.

3 Q. Isn't it true that the first time we met,
4 you were at my place and there was a car crusher sitting
5 where the two barrels were?

6 A. That's correct.

7 Q. And didn't we also come to the agreement
8 that when we pulled a motor off of that car crusher that
9 this was a hydraulic oil spill?

10 A. I believe so, yes, sir.

11 Q. So we nailed down the oil contamination, and
12 there's grass growing now, so it's -- In your picture on
13 number 9 --

14 A. Yes, sir.

15 Q. -- you've got a picture of a large loader
16 tire?

17 A. Yes.

18 Q. And you do know and you do remember that I
19 use loaders in my business to recycle my materials and to
20 load them?

21 A. I believe I did see equipment sitting on the
22 side there in one of my inspections.

23 Q. Let's skip around a little bit. You had
24 some pictures of mobile home and you made comments about

1 the mobile homes?

2 A. Yes, sir.

3 Q. Did you check with Coles County --

4 A. No, sir.

5 Q. -- to see about paperwork for those mobile
6 homes?

7 A. No, sir.

8 Q. So you don't know that they were legally
9 stored there and all the paperwork is in place at the
10 courthouse in Charleston, Illinois?

11 A. No, I don't, sir.

12 Q. You've got pictures of some tires in
13 containers as number 13?

14 A. Yes, sir.

15 Q. Number 15, isn't it true that there's a
16 flatbed trailer, that those are large equipment tires on
17 a flatbed trailer?

18 A. Yes, sir.

19 Q. Picture number 5, those tires are contained
20 in a trailer?

21 A. Yes, they are, sir.

22 Q. They all have rims on them?

23 A. I can't see that in the picture.

24 Q. But you can't say that they don't.

1 A. No, I don't.

2 Q. This picture number 4, in the background,
3 isn't there a mobile home in the process of being
4 dismantled?

5 A. Yes, sir.

6 Q. Isn't it a pretty good assumption that that
7 debris come off of that mobile home?

8 A. I can't say that for sure, sir.

9 Q. But you can't say it didn't.

10 A. No, I can't.

11 Q. In recycling metals, I'm sure you're not in
12 the know, but you don't recycle metal along with wood.
13 It has to be separated. It's just general knowledge.

14 A. I'm not real clear about what you mean on
15 that, sir.

16 Q. Well, the -- as to a mobile home, if you
17 start to recycle it, you have to take the metal off of it
18 and the wood goes separate. You can't ship sections of
19 wood and metal together to recycle.

20 A. No, sir, I don't believe I do know.

21 Q. Back to the picture of the ammo boxes, first
22 of all, it's for sale. I'll sell every one of them to
23 you for a dollar a box. But didn't we have a discussion
24 about that? Didn't I explain the circumstance on those

1 ammo boxes?

2 A. Yes, you did, sir.

3 HEARING OFFICER WEBB: Excuse me. Is that
4 14, photo 14?

5 MR. MORETON: Yes, it is.

6 HEARING OFFICER WEBB: Okay.

7 MR. MORETON: Yes.

8 HEARING OFFICER WEBB: Thank you.

9 Q. (By Mr. Moreton) And there is approximately
10 800 boxes there.

11 A. (Witness nods head up and down.)

12 Q. Didn't we have a discussion about that, that
13 I had sold those to Rural King here in Mattoon?

14 A. Yes, sir.

15 Q. And isn't it also true that I told you that
16 I went and loaded them at Crane, Indiana, had a verbal
17 agreement with Mattoon Rural King, called them to tell
18 them I was ready to deliver and they cut the market by
19 almost half?

20 A. You did tell me that they didn't carry
21 through on their part of the agreement.

22 Q. Yes, sir. And I also explained to you that
23 that's why they were there, and at the time I also
24 explained to you that they were for sale?

1 A. Yes, sir.

2 Q. You mentioned numerous or several
3 automobiles. With my license issued by the Secretary of
4 State's office, didn't that allow me to have 10,000
5 automobiles there if I wish?

6 A. From the Illinois EPA's viewpoint, you're
7 allowed to have vehicles on site as part of the recycling
8 operation if that's done in a timely fashion.

9 Q. Well, timely fashion, with what I do, if I
10 have a special motor, it may have to sit for six years
11 before I sell it; isn't this true?

12 A. That could be, yes, sir.

13 Q. Or certain car parts. The construction
14 debris --

15 A. Yes, sir.

16 Q. -- you stated you saw chunks of asphalt in
17 there.

18 A. I believe I did, yes, sir.

19 Q. Could you explain to me how 12 loads of pit
20 wash from a concrete mixing plant here in Mattoon,
21 Illinois, would have chunks of asphalt?

22 A. No, sir, I can't.

23 Q. Isn't it true that there was exactly twelve
24 semi dump loads of pit wash there and one pile of dirt?

1 A. I couldn't determine how much was there,
2 sir.

3 Q. Didn't we also have a discussion about that?

4 A. I believe we did, yes, sir.

5 Q. Didn't I inform you that there was a
6 building back there on a flatbed trailer, a steel
7 building, and I was going to use that pit wash to level
8 off the ground and prepare it for concrete base?

9 A. I recall that you were thinking about making
10 the drive out of that, sir.

11 Q. Yeah, I do that also. But it was there for
12 a purpose. It wasn't randomly dumped?

13 A. It didn't appear to be, no, sir.

14 Q. And didn't I also inform you that I had to
15 pay for that, I had to pay for the loading of it here in
16 Mattoon at the ready mix plant?

17 A. You did tell me that, yes, sir.

18 Q. So it was purchased material.

19 A. I --

20 Q. Any time you have to pay for material,
21 whether it's just the loading of it or the material
22 itself, it's purchased material.

23 A. Yes, sir.

24 Q. So it's there for a purpose. Didn't we also

1 talk about that property and why that property was
2 initially bought 13 years ago?

3 A. I don't recall that, sir.

4 Q. It wasn't. You don't remember that we
5 talked about I bought it for the business and it was used
6 for business from that day forward?

7 A. I had that assumption, but I don't recall
8 that part of our conversation.

9 Q. Well, even according to the license issued
10 by the Secretary of State, that property is designated as
11 business property.

12 A. Yes, on the -- on your card there it is,
13 sir.

14 MR. MORETON: Yes. I think at this time
15 that'd be all. I may wish to question more later.

16 HEARING OFFICER WEBB: All right. Ms. Ryan,
17 do you have any redirect?

18 MS. RYAN: Yes.

19 FURTHER DIRECT EXAMINATION

20 BY MS. RYAN:

21 Q. Mr. Keigley, can you identify in the
22 photographs attached to your report which photographs
23 depict tires that are being stored or dumped upon the
24 ground as opposed to in the trailers that Mr. Moreton was

1 discussing?

2 A. Photo number 2, photo number 6, number 7,
3 number 8, number 12 and number 9, number 10.

4 Q. Do you have an estimate of how many tires
5 Mr. Moreton had at the property on January 20, 2004?

6 A. Approximately 255.

7 Q. And were these tires from different types of
8 vehicles?

9 A. Yes, they were.

10 Q. Back to photograph number 1, can you tell me
11 what that white and yellow material in the foreground is?

12 A. It was some sort of plastic, is what it
13 appeared to be. I couldn't say what its original purpose
14 was.

15 Q. On photograph 16 we have the 12 loads of
16 concrete pit wash. When you were out there on January
17 20, 2004, could you determine what its apparent purpose
18 was there on the site?

19 A. No, I could not. It was overgrown by
20 vegetation and I could not determine what it was going to
21 be used for.

22 MS. RYAN: Thank you. I have nothing
23 further.

24 HEARING OFFICER WEBB: Do you have any more

1 questions for this witness?

2 FURTHER CROSS EXAMINATION

3 BY MR. MORETON:

4 Q. Just a quick rebuttal. This picture number
5 1, these white and yellow pieces, did you pick one of
6 those up?

7 A. No, I didn't, sir.

8 Q. You just observed them from a distance?

9 A. Yes, sir.

10 Q. You didn't notice that they were lightweight
11 metal?

12 A. No, sir.

13 Q. They were handrails and stuff off of baby
14 cribs and stuff of that nature.

15 A. No, I didn't, sir.

16 Q. But nonetheless, metals, plastics -- I don't
17 like to handle glass -- but even glass, aren't those all
18 recyclable materials?

19 A. To some extent, I believe they are, yes,
20 sir.

21 Q. We got back here -- we hit the tires again.
22 Isn't it also true that you observed several trucks and
23 several trailers at this property, semi trailers, large
24 equipment?

1 A. I did see semi trailers, yes, sir.

2 Q. That I use in my business? A lot of these
3 pictures are semi truck and trailer tires?

4 A. Yes, sir.

5 Q. And granted, there are some without wheels,
6 but 90 to 95 percent of these tires had rims on them?

7 A. I couldn't say that, sir.

8 Q. Well, just in your photographs, number 2,
9 there's four tires there. Three out of four have rims on
10 them?

11 A. It looks to me like there's five there, sir,
12 and I do see for sure that two of them has rims.

13 Q. Okay. Picture number 9 where the big loader
14 tire's at, there's some other tires there. The loader
15 tire doesn't have a rim on it but the tires around it do?

16 A. Yes, sir, it appears that one of the other
17 tires has a rim. The other is not that clear.

18 Q. Number 11, implement tires and mobile home
19 trailer tires in that picture, do you see any of them
20 there that don't have rims?

21 A. No, sir, I don't.

22 Q. Picture number 13, same way. Looks like
23 there's one tire right in the middle that doesn't have a
24 rim on it.

1 A. Yes, sir.

2 Q. And picture number 7, we did have
3 conversation and that was a spot to clean up.

4 A. Yes, sir.

5 Q. Could you tell me why -- what prompted you
6 to make the inspection in 2004?

7 A. I believe it was a complaint, a citizen's
8 complaint, sir.

9 Q. Wasn't that complaint by Dan Stretch, Coles
10 County Health Department?

11 A. We normally don't divulge that information,
12 sir.

13 Q. The Freedom of Information Act would apply
14 here.

15 HEARING OFFICER WEBB: What are you asking?
16 The name of the person?

17 MR. MORETON: Yeah. Well, I know for a fact
18 who it was. It was Dan Stretch, Coles County Health
19 Department.

20 HEARING OFFICER WEBB: Well --

21 Q. (By Mr. Moreton) Isn't this true?

22 HEARING OFFICER WEBB: I -- If you -- I
23 don't think it's necessarily relevant to this proceeding.
24 If you want to submit a FOIA request to the EPA -- I

1 don't want to make that determination. Right now I'm
2 going to say he does not have to disclose the name of the
3 person who complained.

4 MR. MORETON: Prior to that we talked about
5 another complaint by Darrell Cox and it was admitted.
6 Darrell Cox and I have had a run-in for several years,
7 and this is his way of trying to get back at me. Darrell
8 Cox filed a complaint with the Coles County nuisance
9 ordinance.

10 HEARING OFFICER WEBB: Mr. Moreton, right
11 now you're testifying on your own behalf, and you'll have
12 an opportunity to do that, but I just want to know if you
13 have any more questions for this witness regarding
14 anything that Ms. Ryan had just questioned him about.

15 MR. MORETON: No, I don't believe so.

16 HEARING OFFICER WEBB: Okay. Anything
17 further?

18 MS. RYAN: No. Thank you.

19 HEARING OFFICER WEBB: Okay. Thank you,
20 Mr. Keigley. Ms. Ryan, do you have any further --

21 MS. RYAN: We do not have any further
22 witnesses. Oh, although I would like to -- I'm sorry --
23 move for admission of Exhibit 1 into evidence. I
24 apologize.

1 HEARING OFFICER WEBB: Okay. And,
2 Mr. Moreton, do you have any objection to that?

3 MR. MORETON: The only objection is some of
4 the pictures are doubled. They give a different --

5 HEARING OFFICER WEBB: Okay. Well, I'm
6 going to go ahead and admit Exhibit 1 into evidence.

7 MR. MORETON: Okay.

8 HEARING OFFICER WEBB: Is there anything
9 further?

10 MS. RYAN: Now we have nothing further.

11 HEARING OFFICER WEBB: Okay. Thank you,
12 Ms. Ryan. Mr. Moreton, as soon as the court reporter
13 swears you in, you may testify on your own behalf.

14 (Witness sworn.)

15 HEARING OFFICER WEBB: Go ahead.

16 MICHAEL MORETON, produced, sworn and examined on
17 behalf of the Respondent, testified as follows:

18 MR. MORETON: I am a licensed auto parts
19 recycler, licensed Secretary of State's office out of
20 Springfield. UDL number is 8964. I have been licensed
21 for over ten years. That gives me the authority to deal
22 in automotive parts and cars any place in the state. The
23 only place I can sell parts is off of my property at --
24 north of Ashmore that we're here talking about.

1 I have recycled metals for 30 years. This is
2 nothing I just started. I don't run around in a pickup
3 truck cutting up swing sets in people's yards. I ship
4 truck trailer loads of metals to be recycled. I recycle
5 all types of metals; brass, aluminum, copper, steel,
6 automotive batteries. If there's a market for it, I
7 recycle it. I make my living buying and selling. It
8 doesn't have to be a car, like these automotive boxes. I
9 was buying stuff out of the military base in Crane,
10 Indiana, and I was selling the items from there. Most of
11 the stuff I sold went to a salvage place in Peoria,
12 Illinois, Bauer, Incorporated. That's when I ran across
13 the deal with these ammo boxes that I made a verbal
14 agreement to sell to Rural King here in Mattoon and they
15 reneged on the deal. They tried to cut the market or cut
16 the price in half. The ammo boxes are still there. An
17 ammo box is made out of treated wood. They don't
18 deteriorate anything like a piece of two-by-four or a
19 regular lumber. As I stated, they're there, they're for
20 sale. Anybody wants to buy an ammo box, it's a dollar
21 apiece. That's the way I make my living.

22 I bought this property thirteen years ago. I
23 bought it for the business. I've used it for the
24 business ever since. I've never once lived there a day

1 in my life. It's not residential property. It's
2 business property. Granted, some of the tires got out of
3 hand. There for a while I was running six trucks, two
4 car crushers and fourteen employees, and we generate a
5 lot of material fast under a circumstance like that. We
6 were shipping over 100 ton of metal a day, not all of it
7 out of this location, but this is always the coming-home
8 location, and I do admit that some of the tires got out
9 of hand. We're working on it.

10 I hired a welding and fabrication place from
11 Chesterville to build me a rim crusher so we could
12 separate the rims from the tires when we dispose of the
13 tires. It took them one year to build this rim crusher
14 for me. It did exactly thirty tires and broke. I since
15 took everything, all the parts, pieces, pumps, valves, to
16 another place in Marshall, had everything there since
17 last September. It's still there. He hasn't touched it.

18 We've refabricated the rim crusher and we are
19 using it. We're separating tires from wheels in the
20 process of recycling. The tires that are taken off the
21 rims are stored in a tarped, tailgated trailer. When
22 that trailer gets full, they'll be removed. I can't
23 afford with the price of fuel to ship 30 or 40 tires at a
24 time. I'm not set up that way. I'm set up to move semi

1 loads. And we are honestly working on it. If I bring 50
2 cars a week into that yard, that's 200 tires a week that
3 we have to deal with. This is a constant, ongoing deal.
4 It's not something that I went out and bought a bunch of
5 junked cars, took the tires off and threw them on the
6 ground. It's an ongoing business.

7 The two complaints, the first one we talked about
8 was Darrell Cox. He made a complaint to the --
9 Mr. Keigley. We talked about it. In one out of the
10 three places there was nothing wrong. The third place
11 there was a very minute problem that was taken care of.
12 The first place was this property, and I was using it for
13 business then. The second complaint was from Dan
14 Stretch, Coles County Health Department. I know it. I
15 can prove it. And Dan Stretch owns a property adjacent
16 to me to the south, which with his position as Coles
17 County Health Department and his making of complaint
18 against me as Dan Stretch from the Coles County Health
19 Department is a conflict of interest. He brought --
20 bought his property six years ago and I've had mine for
21 thirteen. If he didn't want me there, he shouldn't have
22 bought the property. None of my neighbors complain. I
23 buy scrap off of all but one neighbor. There's four
24 houses on that road past me, and I buy scrap, cars,

1 batteries, aluminum off all but one of those neighbors.

2 Back to the deal with Dan Stretch, Mr. Stretch
3 also two and a half years ago, three years -- well,
4 that's been longer -- it's been about four years ago
5 now -- erroneously made a report to the Secretary of
6 State's office accusing me of dealing cars without a
7 license. Cost me two and a half months' work to get that
8 straightened out before we had it in court. All charges
9 were overturned, no complaints or no -- nothing stuck.
10 This deal with Dan Stretch and the Coles County Health
11 Department, they're trying their best to financially hurt
12 me, and this is one step in that.

13 I'm small-time. Right now I have one and
14 sometimes two employees plus my son. I don't ship the
15 volume I do. I work 95 percent of my work off of this
16 property, and I will continue to use this property,
17 because it's what I do. That's what I've done for 30
18 years. And I admit, there has been a problem in the
19 past, and we're working on it. We really are. We work
20 on it every -- oh, every week. I can't say every day
21 because we don't get the chance to do tires every day.
22 My guys did 50 or 60 tires yesterday. They ran out of
23 gas. They're working on them today because I'm not
24 there. They can't do anything till I get there.

1 Like I say, it's just an ongoing -- it's a
2 business, and I've been in this business long enough, I
3 know where there's -- I can take you right now and show
4 you ten trailer loads full of tires. I can take you and
5 show you the guys that's burning tires. I can show you
6 the guys that's throwing tires over the hill. I can take
7 you one mile north of my place to another auto parts
8 recycling yard and show you a mountain of tires. I can
9 take you to the bottom of the hill there at Route 16 and
10 show you decomposing stacks of pallets and abandoned
11 cars. I am no worse than anybody I've mentioned and a
12 lot better than most.

13 HEARING OFFICER WEBB: Okay.

14 MR. MORETON: That's about all I have to
15 say.

16 HEARING OFFICER WEBB: Okay. Ms. Ryan?

17 CROSS EXAMINATION

18 BY MS. RYAN:

19 Q. Mr. Moreton, you said this was your
20 coming-home location. What did you mean by that?

21 A. In the past I was running portable crushers,
22 and we go on site to different salvage yards,
23 individuals, whoever had the volume of cars we needed to
24 move a crusher in it to crush. This is the yard that I

1 was using for overflow and to crush what I bought local.

2 Q. Are you a registered tire hauler with the
3 Illinois EPA?

4 A. No, I'm not.

5 Q. Who hauls your tires?

6 A. I have a gentleman out of Madison, Indiana,
7 down by Washington, Indiana. I have a business associate
8 in Garrett, Illinois.

9 MS. RYAN: That's all I have.

10 MR. MORETON: One other, if I could.

11 HEARING OFFICER WEBB: Sure.

12 MR. MORETON: Being a licensed auto parts
13 recycler, these rims and tires are automotive parts.
14 They're used parts. They come off the cars, they come
15 off the equipment, and they are parts. They're not just
16 tires. They're parts. And they are recyclable
17 materials. That's all.

18 HEARING OFFICER WEBB: Any questions for
19 that?

20 MS. RYAN: Yeah.

21 FURTHER CROSS EXAMINATION

22 BY MS. RYAN:

23 Q. Do you actually sell tires or rims off your
24 property?

1 A. For the most part, I sell rims. I give the
2 tires away. You buy a rim, you get a tire with it. And,
3 yes, I do sell some stuff.

4 Q. You sell the rims for reuse or for
5 recycling?

6 A. Both. I sold a truck rim the other day to a
7 gentleman who wanted a fire pit.

8 Q. So you -- I take it, then, that you don't --
9 you're not recycling the rubber parts of the tires.

10 A. They go to somebody that will recycle them,
11 yes, and I am working on a deal to cut the larger tires
12 into quarters and they go to a landfill then.

13 MS. RYAN: That's all.

14 HEARING OFFICER WEBB: Anything further?

15 MR. MORETON: I don't believe so.

16 HEARING OFFICER WEBB: Okay. Very good.

17 Let's go off the record for a moment to discuss the
18 briefing schedule.

19 (Discussion held off the record.)

20 HEARING OFFICER WEBB: We've just had an
21 off-the-record discussion regarding post-hearing briefs.
22 The parties have agreed to a briefing schedule as
23 follows: The transcript of these proceedings will be
24 available from the court reporter by July 31 and will be

1 posted on the Board's Web site. The public comment
2 deadline is August 14. Any public comment must be filed
3 in accordance with Section 101.628 of the Board's
4 procedural rules. The Complainant's brief is due by
5 August 15. The Respondent's brief is due by September 1,
6 and the Complainant's reply, if needed, is due by
7 September 8. The mailbox rule will apply.

8 Ms. Ryan, would you like to make any closing
9 arguments?

10 MS. RYAN: No. I would like to reserve that
11 for my brief. Thank you.

12 HEARING OFFICER WEBB: Mr. Moreton, would
13 you like to make any closing arguments?

14 MR. MORETON: I don't believe so.

15 HEARING OFFICER WEBB: Okay. Again, I will
16 note that there are no members of the public here to make
17 any statements in the record, so I will proceed to make a
18 statement as to the credibility of the witnesses
19 testifying during this hearing. Based on my legal
20 judgment and experience, I find both of the witnesses
21 testifying to be credible. At this time I will conclude
22 the proceedings. We stand adjourned and I thank you all
23 for your participation.

24 (Hearing adjourned.)

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

3

4 I, KAREN WAUGH, a Notary Public and Certified
5 Shorthand Reporter in and for the County of Bond, State
6 of Illinois, DO HEREBY CERTIFY that I was present at the
7 City Hall Council Chambers, Mattoon, Illinois, on July
8 19, 2006, and did record the aforesaid Hearing; that same
9 was taken down in shorthand by me and afterwards
10 transcribed, and that the above and foregoing is a true
11 and correct transcript of said Hearing.

12 IN WITNESS WHEREOF I have hereunto set my hand
13 and affixed my Notarial Seal this 27th day of July, 2006.

14

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Notary Public--CSR

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#084-003688

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