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ILLINOIS POLLUTION CONTROL BOARD  
December 4, 2008

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Complainant, )  
vs. ) AC 07-30  
BOBBY G. MYERS and DONALD ) (IEPA No. 375-06-AC)  
D. MYERS, ) (Administrative  
Respondents. ) Citation)

Hearing held  
December 4, 2008

REPORTER: Bobbi L. Hamlin, CCR, RMR  
Illinois License #084-002797

Keefe Reporting Company  
11 North 44th Street  
Belleville, Illinois 62226

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ILLINOIS POLLUTION CONTROL BOARD  
December 4, 2008

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Complainant, )  
vs. ) AC 09-9  
BOBBY G. MYERS and DONALD )  
D. MYERS, )  
Respondents. )

APPEARANCES:

For Complainant:  
Illinois Environmental Protection Agency  
by Michelle M. Ryan, Esq.

For Respondents:  
Law Offices of Wes Wilkins  
by Wes Wilkins, Esq.

1 JUDGE WEBB: Good afternoon.

2 My name is Carol Webb. I'm a hearing  
3 officer with the Pollution Control Board.

4 This is the hearing for AC 07-30 IEPA vs.  
5 Bobby and Donald Myers.

6 It is December 4th and we are beginning at  
7 12:30 p.m.

8 I'll note for the record that there are no  
9 members of the public present. Members of the public  
10 are allowed to provide public comment if they so choose.

11 In this case the agency alleges that  
12 Respondents violated Sections 21 (p) (1) and (p) (3) of  
13 the Act at a site located at 3050 Mount Glen Road in  
14 rural Cobden, Union County.

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

19 I will also assess the credibility of any  
20 witnesses on the record at the end of hearing.

21 This hearing was noticed pursuant to the  
22 Act and the Board's rules and will be conducted pursuant  
23 to Section 101.600 through 101.623 of the Board's  
24 procedural rules.

1                   At this time I will ask the parties to,  
2 please, make their appearances on the record.

3                   MS. RYAN: Michelle Ryan, Special Assistant  
4 Attorney General for the Illinois EPA. And I have my  
5 formal entry of appearance here of the order and 10  
6 copies, one of which is for you.

7                   JUDGE WEBB: Thank you.

8                   MR. WILKINS: My name is Wes Wilkins,  
9 attorney at law, here in Anna, Illinois and I represent  
10 the Respondents, Bobby G. Myers and Donald E. Myers.

11                   JUDGE WEBB: Thank you.

12                   Are there any preliminary matters to  
13 discuss on the record?

14                   MS. RYAN: Not for me.

15                   MR. WILKINS: None from the Respondents.

16                   JUDGE WEBB: Okay. Ms. Ryan, would you  
17 like to make an opening statement?

18                   MS. RYAN: Yes.

19                   We believe that the evidence today will  
20 show that on December 5th, 2006 open dumping resulting  
21 in litter and opening burning occurred at the facility  
22 located at 300 Mount Glen Road in rural Cobden, Union  
23 County and that the two Respondents here are responsible  
24 parties with respect to that open dumping and that there

1 are no defenses to be presented today that would relieve  
2 that liability.

3 JUDGE WEBB: Thank you.

4 MS. RYAN: Thank you.

5 JUDGE WEBB: Mr. Wilkins, would you like to  
6 make any opening statement today?

7 MR. WILKINS: No, Thank you. I would waive  
8 any opening statement at this time.

9 JUDGE WEBB: All right.

10 Ms. Ryan, you may present your case.

11 MS. RYAN: We call Garrison Gross.

12 JUDGE WEBB: Would the court reporter,  
13 please, swear in the witness.

14

15 GARRISON GROSS, produced, sworn, and examined  
16 as a witness on behalf of the Complainant, testified and  
17 deposed as follows:

18 DIRECT EXAMINATION

19 BY MS. RYAN:

20 Q. Can you state your name for the record,  
21 please?

22 A. Garrison Gross.

23 Q. What is your job?

24 A. I'm a field inspector for the Illinois

1 Environmental Protection Agency.

2 Q. How many years have you been a field  
3 inspector for the Illinois EPA?

4 A. Four years.

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

6 A. Inspecting opening dumps, tire storage  
7 facility, hazardous waste sites for the agency.

8 Q. Can you estimate how many inspections  
9 you've conducted over the four years you've worked for  
10 EPA?

11 A. Approximately 250.

12 Q. What's your educational background?

13 A. I have a bachelor's degree in safety  
14 engineering from Murray State University and bachelor's  
15 degree in environmental biology from Charleston,  
16 Illinois.

17 Q. Have you had any additional training  
18 related to your job following your education?

19 A. Yes, we have training on a regular basis  
20 for hazardous waste.

21 I have a pesticides applicator's license  
22 that's required by the state for mosquito abatement.

23 Q. Are you familiar with the facility located  
24 at 50350 Mount Glen Road in Cobden?

1 A. Yes.

2 Q. And where is that property located with  
3 respect to the Village of Cobden?

4 A. West of Cobden, east of 127.

5 Q. How did you determine who owns that  
6 property?

7 A. I came to the assessor's office and pulled  
8 a tax record for that piece of property based on maps  
9 that I had with the plat book map and also evidence from  
10 the site, vehicles.

11 Q. And based on your review at the assessor's  
12 office and the information were you able to obtain at  
13 the site who did you determine were owners of the  
14 property?

15 A. Bob Myers, Donald Myers, Harold Myers and  
16 Barbara -- is it -- Cerney.

17 Q. How many inspections have you conducted at  
18 that site?

19 A. Three.

20 Q. I'm going to show you what I've marked as  
21 Exhibit 1 for evidence. Can you tell me do you  
22 recognize that document?

23 A. Yes.

24 Q. What is it?

1           A.     It's an inspection report conducted on  
2     December the 5th, 2006 by me.

3           Q.     Can you look through the pages there for me  
4     and make sure that they're all present?

5           A.     There's a blank page that should not be in  
6     there.

7           Q.     Let's tear that out then.  Oh, actually,  
8     hold on, let's not tear that out, because I think it's  
9     just a blank page in the middle of photos?

10          A.     Appears to be.

11                     This is a -- page eight.  This is page  
12     nine.

13          Q.     There you go.  If you have a blank page it  
14     doesn't belong in there.

15                     JUDGE WEBB:  I don't have one.

16                     MR. WILKINS:  Okay.  I don't either.

17     BY MS. RYAN:

18          Q.     You got lucky.

19          A.     Appears to be.

20          Q.     Would you like one that's not torn apart  
21     now?  Staples aren't as strong as they should be.

22                     Is this a fair, accurate and complete copy  
23     of your report?

24          A.     Yes.



1 Q. Can you describe this property, generally?

2 A. What it looks like?

3 Q. Yeap.

4 A. It's appear to be an old farm, portions of  
5 the fields appear to be grown up. About 79 acres based  
6 on the plat book and also based on records from the  
7 assessor's office. Covered with old vehicles and tires  
8 and domicile waste and other types of construction  
9 demolition waste on the site.

10 Q. Who took the photographs that are attached  
11 to this report?

12 A. I did.

13 Q. What do they show? If you would like to  
14 show one of 14 of the bottom of photo pages.

15 A. Photo to number one was what appeared to be  
16 excavated pit that contained waste metal and waste  
17 materials and demolition waste.

18 And photo number two was an area located  
19 just off of the dirt road that had been constructed that  
20 had waste tires, waste furniture and more domicile  
21 waste.

22 Photo number three is this newly  
23 constructed road. This road was -- did not look like  
24 this at the time of the last inspection or the previous

1 inspection. Lot of trees had been were grown up on  
2 either side of -- side and all of those trees had been  
3 either knocked down or pushed up into a pile and  
4 appeared to have been burned.

5 Photo number four was an area where used  
6 tires had been burned and there's tire beads, tire  
7 carcasses, tire residue on the ground from the burning  
8 of those tires. Looked -- looks like there's a bunch  
9 there according to that picture.

10 Q. Can you give me an estimate of how many a  
11 bunch would constitute?

12 A. I don't know, more than a hundred.

13 Q. Okay.

14 A. Photo number five is just a closer  
15 depiction of -- of those tire beads and tire carcasses  
16 that were burned.

17 Photo number six, evidence that there --  
18 landscape waste had been burned with the tires. Appears  
19 that maybe it had been pushed over with a bulldozer,  
20 could have been could have been blown down by the wind,  
21 but pushed up into a pile and set on fire.

22 Photo number seven is a waste vehicle.  
23 There's no tires on the front of the vehicle and the  
24 hood is missing. It's got waste tires in the back of

1 it.

2 Photo number eight is a brushy area  
3 containing many, many tires. I think the -- I think my  
4 estimation was approximately 2000 tires at the site.

5 Photo number nine was a -- appears to be a  
6 box trailer, lot of demolition waste, waste tires coming  
7 out of -- spilling out of the back end of that.

8 Photo number 10 is demolition waste, waste  
9 metal, blue unidentifiable things are -- I don't know  
10 what those are.

11 Photo number 11 is a waste car grown up in  
12 weeds and the window was down on it, so it was exposing  
13 the interior to the rain.

14 Photo number 12 was a waste vehicle.

15 Photo number 13 appeared to be a waste  
16 mobile home, was not connected to electricity, was not  
17 leveled. It did not appear that anyone was living in  
18 it.

19 Photo number 14 more waste tires.

20 Photo number 15 is a waste vehicle turned  
21 on it's side and partially demolished on the top.

22 Photo 16 was a track hoe.

23 Photo 17 is a vehicle that had a current  
24 license plate and it had a cutting torch in the back of

1 it.

2 Q. Can I stop you for one second?

3 A. Yes.

4 Q. Going back to photo 16 --

5 A. Yes.

6 Q. -- behind the track hoe, is that same  
7 mobile home that's visible in the previous photo, number  
8 13?

9 A. Yes, it appears to be. I only recall one  
10 mobile home being at the site at that location.

11 Photo 18, more waste tires overgrown in  
12 vegetation.

13 Photo 19, photograph of vehicle, engine  
14 components dumped on the ground.

15 Photo 20 was another waste vehicle with the  
16 front end damage and appears that the windows out of the  
17 side of it.

18 Photo 21 is a waste farm vehicle overgrown  
19 in vegetation.

20 Photo 22 is a waste vehicle, door open, no  
21 front end on it, headlight -- headlight assembly all  
22 gone grown up in weeds an bushes.

23 Photo 23 is a waste vehicle, some kind of  
24 industrial loader is what it appears to be, also grown

1 up in weeds bushes and trees.

2 Photo 24, I think the Ford Taurus is the  
3 waste vehicle in the picture. The red truck was not  
4 considered to be waste. The Ford Taurus is missing a  
5 front wheel on it.

6 Q. Before you turn the page back, in  
7 photograph 23 can you identify what that whitish object  
8 is in front of the loader that you indicated was in the  
9 photo?

10 A. It appears to be a spray tank for  
11 herbicides or pesticides is what it appears to be.

12 Photo 25 was waste metal and waste tires.  
13 There's a white appliance out there to the right-hand  
14 side, looks like a refrigerator or something.

15 Photo 26 was the roadway leading back down  
16 to the old garage building.

17 Photo 27 was standing down at the bottom of  
18 the hill facing north depicting the change in how the --  
19 how the area of the trees had been knocked down and the  
20 road fixed up.

21 And 28 is another photo from a different  
22 angle of the waste metal and tires that's depicted in  
23 25.

24 Q. Okay. Now, photograph 28, your comments to

1 the side, indicate that there's an old house in the  
2 picture. Is that that house?

3 A. To the right next to the pine tree.

4 Q. Okay.

5 A. It did not appear that anyone was living in  
6 the house at the time.

7 Q. Okay. Do these photographs accurately  
8 depict what you see at the property on December 5th,  
9 2006?

10 A. Yes.

11 Q. Does Illinois -- when was this report  
12 generated?

13 A. Some time after December the 5th. It  
14 usually takes us about two weeks to a month to -- to get  
15 an inspection report together and sent up to  
16 Springfield.

17 Q. Does Illinois EPA keep these reports in the  
18 regular course of it's business?

19 A. Yes.

20 MS. RYAN: At this time I would move  
21 Exhibit 1 into evidence.

22 MR. WILKINS: No objection.

23 JUDGE WEBB: Exhibit 1 is admitted into  
24 evidence.

1 MS. RYAN: And I have nothing further at  
2 this point.

3 JUDGE WEBB: Mr. Wilkins?

4 MR. WILKINS: Thank you.

5 CROSS-EXAMINATION BY MR. WILKINS:

6 Q. Mr. Gross, you said you made three site  
7 visits; is that right? If I understood you correctly?

8 A. Yes. Yes.

9 Q. The first one, if I'm correct from your  
10 notes, was in May of '05 and then the second one was  
11 December of 2006; is that correct?

12 A. I believe so.

13 Q. Okay. When was the third one?

14 A. I don't have the inspection report in front  
15 of me.

16 Q. Okay. When was the third site visit?

17 A. I think that was in 2008.

18 Q. Okay. Did you generate a report based upon  
19 that inspection?

20 A. Yes.

21 Q. Okay. Has that been supplied to Ms. Ryan;  
22 do you know?

23 A. I believe so.

24 Q. Okay. When you went on 2000 -- the site

1 visit on 2008 what had changed, if anything?

2 MS. RYAN: I object to relevance. We're  
3 discussing what the violations were in '05 or 2006,  
4 December 5th, 2006, and anything that's happened since  
5 then isn't relevant to whether violations occurred or --

6 JUDGE WEBB: I would like to concentrate on  
7 this inspection report, but I'll give you a little  
8 leeway if you think -- if you're making -- if you're  
9 leading up to something relevant.

10 BY MR. WILKINS:

11 Q. Okay. All right.

12 A. Can you restate your question, please?

13 Q. What, if anything, did you see that had  
14 changed between 2006 and the visit in 2008?

15 A. This is from recollection, because I don't  
16 have the inspections in front of me.

17 Q. Yes, sir. Uh-huh.

18 A. But I believe that more of the waste  
19 vehicles and metal have -- have -- had been removed from  
20 the site. The tires had been moved out of the bushes  
21 and weeds and congregated or thrown up gathered up into  
22 a large pile, not -- not that all of them were in the  
23 large pile, but there was a large pile being created.

24 Q. Now, you stated that when you went to the



1 to the site that that's how you determined who the  
2 owners of the property were or that was one of the ways;  
3 is that correct?

4 A. When I went there?

5 Q. Yes.

6 A. Yes.

7 Q. And how did you determine when you went to  
8 the site who the owners of the property were?

9 A. Well, I didn't -- I didn't determine it, I  
10 don't guess that -- at that time, but there were Myers  
11 Enterprises vehicles parked on the site.

12 Q. Okay.

13 A. And -- and --

14 Q. Were they in violation of any law?

15 A. The vehicles?

16 Q. Yes.

17 A. No.

18 Q. All right.

19 And then how did you determine who Myers  
20 Enterprises was?

21 A. I don't know that I did.

22 Q. Okay. But yet you stated, did you not in  
23 your direct testimony, that you determined that there  
24 were four people who owned and/or were involved in this

1 particular site; is that correct?

2 A. That's correct.

3 Q. And how did you determine that?

4 A. I got the deed.

5 Q. Okay. But yet those people haven't been  
6 cited; is that correct?

7 A. That's correct.

8 Q. All right.

9 Why weren't the other two people cited?

10 A. I don't think they were known at the time.

11 Q. Okay. But you since determined that there  
12 were two additional people here who had an ownership  
13 interest; is that correct?

14 A. Yes.

15 Q. Did you do a title search on the property  
16 before the citations were issued?

17 A. I did not.

18 Q. All right.

19 Do you ever do that?

20 A. I do not.

21 Q. Okay. Did you ever see any opening burning  
22 at the site when you were there?

23 A. Did I see opening burns?

24 Q. Yes, sir.

1 A. No.

2 Q. All right.

3 Did you see anybody at the site when you

4 were there?

5 A. No.

6 Q. Now, what -- what did you see on the site

7 which you believe constitutes litter?

8 A. Domicile waste.

9 Q. Okay.

10 A. Household --

11 Q. Described what that is.

12 A. Household garbage.

13 Q. Okay. When you say household garbage,

14 describe what you saw that constitutes household

15 garbage.

16 A. Paper, plastic bags, plastic buckets,

17 furniture.

18 Q. Okay.

19 A. The tires are considered litter as well.

20 Q. Is it --

21 A. Also, wood and plastic pipe.

22 Q. Is it your testimony that all the things

23 you took photographs of have no value?

24 A. No.

1 Q. Okay. Do the vehicles that you saw there  
2 have value?

3 A. I'm sure they do.

4 Q. Okay.

5 A. That doesn't mean they're not opened  
6 dumped.

7 Q. Okay.

8 A. That doesn't mean they're not waste  
9 vehicles just because they have a value.

10 Q. Okay.

11 A. They're not being protected from future  
12 use.

13 Q. And that's your definition.

14 A. That's the agency's definition.

15 Q. Okay. Now, your report says that you saw  
16 2000 waste tires there; is that an approximation?

17 A. That's an approximation.

18 Q. How did you calculate that number?

19 A. I counted off steps, yards, how many --  
20 length and width, and then tried to calculate based on  
21 the length and width how many high it was.

22 Q. Okay. So, you took a section of the pile  
23 of tires, if I understand you correctly --

24 A. Uh-huh.

1 Q. -- and then you extrapolated from that how  
2 many you thought were in that section to get the total  
3 number; is that right?

4 A. No.

5 Q. Okay. Then explain to me how you did it?

6 A. Most of the tires at the time of the --  
7 let's see, no. The -- the second inspection I would  
8 have just -- I would walked an area, yes, length and  
9 width, and tried to calculate within that defined area  
10 how many tires were there based on -- also based on the  
11 height.

12 Q. Okay.

13 A. But then at a later time, I guess it was  
14 this last inspection, it was easier to determine that it  
15 was close to 2000 based on the size of the pile. They  
16 weren't all scattered out on the property.

17 Q. Okay. If you recall, do you recall that  
18 you made a site inspection on the Myers' property  
19 because of a complaint --

20 A. Yes.

21 Q. -- that was received by the agency?

22 A. Yes, it wasn't directly against the Myers.  
23 The complaint was not -- the complaint was against  
24 another individual who admitted that they were going to

1 that property and getting tires to burn the tire off of  
2 the rim for the rim value --

3 Q. Okay.

4 A. -- for seal.

5 Q. So, then you investigated further down the  
6 line; is that what happened?

7 A. Yes. Yes.

8 Q. Okay.

9 A. And that occurred the same day.

10 Q. Are all of your inspections complaint  
11 driven?

12 A. Majority of them, not all of them.

13 Q. So, you would acknowledge, would you not,  
14 that there are a lot of other violators out there, but  
15 you're not receiving complaints on them?

16 A. Absolutely.

17 Q. Okay. In a professional capacity is there  
18 a difference if it wasn't an open dump site and a  
19 salvage operation?

20 A. Yes.

21 Q. Okay. What's the distinction?

22 A. Salvage operation is -- it's automobiles,  
23 typically, has a license from the Secretary of State  
24 Police or Secretary of State. They have records that

1 indicate that things are coming and going off the site  
2 on a regular basis. They have -- they have to have a  
3 sign up according to the Secretary of State regulations  
4 that, you know, defines what the name of the business is  
5 and the telephone number and that kind of stuff.

6 Q. Okay. In one of your photographs I believe  
7 that it indicated and in your report that you saw a  
8 truck there with a cutting torch in the back of it; is  
9 that correct?

10 A. That's what it appears to be.

11 Q. Did you see any evidence there that, in  
12 fact, vehicles were being salvaged on the Myers'  
13 property?

14 A. It appeared that vehicle components were  
15 being, like engines and transmissions, were being  
16 removed from automobiles on the site.

17 Q. Okay. Did you find any evidence or have  
18 any suggestion that any of the items that you either saw  
19 or photographed were being brought there by third  
20 parties that were not involved with the Myers in any  
21 way?

22 A. Did I -- did I see that?

23 Q. Yes, sir, or did you or did you get any  
24 evidence --

1           A.    I --

2           Q.    -- during your investigation?

3           A.    I did have some evidence that things were

4 being brought there possibly not by them --

5           Q.    Okay.  But you never --

6           A.    -- and that's based on the ownership of two

7 boats.

8           Q.    Okay.

9           A.    That doesn't mean he didn't bring them

10 there.

11          Q.    I see.

12          A.    It means they possibly didn't own those

13 boats.

14          Q.    Okay.  During your inspection of the either

15 of the properties or excuse me, on the property on

16 either occasion, on any occasion, have you ever talked

17 to any of the Myers at all with respect to this?

18          A.    On the property?

19          Q.    Yes, sir.

20          A.    No.

21          Q.    Okay.

22          A.    I've never found anyone at the site.

23          Q.    Okay.  And the only indication, if I'm

24 correct, that Bobby Myers was involved with this



1 property was, essentially, based on the record that you  
2 received from the assessor's office; is that right?

3 A. No.

4 Q. Okay. What other evidence did you have?

5 A. I got a letter from both of the gentlemen  
6 indicating that the site would be cleaned up.

7 Q. Okay.

8 A. It was signed by both of them and that was  
9 after the initial inspection.

10 Q. Okay. Do you know when that was? I know  
11 you don't exactly, but possible timeframe? Was it --

12 A. Probably.

13 Q. -- after the first inspection? Before the  
14 second one?

15 A. I think about a month after the first  
16 inspection.

17 Q. Okay.

18 A. But that is the only contact that I have  
19 had with either of them.

20 Q. Okay.

21 A. Actually, I think I did get a phone call  
22 from you. You're -- you're Donald, right?

23 MR. DONALD MYERS: Huh?

24 THE WITNESS: You're Donald, right?

1 MR. DONALD MYERS: Yeah.

2 THE WITNESS: I think I talked to  
3 Donald Myers on the phone around -- around the same  
4 time.

5 MR. DONALD MYERS: I don't remember talking  
6 to you. I wanted you to ask you to come down and --

7 JUDGE WEBB: Mr. Myers, you'll have a  
8 chance to testify to all that.

9 MR. DONALD MYERS: Oh, okay. All right.

10 MR. WILKINS: I don't believe I have any  
11 further questions. Thank you.

12 JUDGE WEBB: Okay. Ms. Ryan?

13 REDIRECT-EXAMINATION BY MS. RYAN:

14 Q. Mr. Gross, where are the two boats that you  
15 referred to in your cross-examination on the property on  
16 December 5th, 2006?

17 A. They're not in the photographs. Let's see  
18 if I have mentioned them.

19 WHEREUPON, THERE WAS A SHORT PAUSE IN THE PROCEEDINGS;  
20 SUBSEQUENT TO WHICH THE FOLLOWING PROCEEDINGS WERE MADE  
21 OF RECORD:

22 I don't report that they were.

23 Q. I'm going to show you what I've marked as  
24 Exhibit 2. Is this the letter you were referring to you

1 received from Bobby and Donald Myers regarding the  
2 property?

3 A. Yes. Yes.

4 MS. RYAN: I would move Exhibit 2 into  
5 evidence.

6 JUDGE WEBB: Any objection?

7 MR. WILKINS: Not having seen it before, I  
8 assume not.

9 JUDGE WEBB: Exhibit 2 is admitted into  
10 evidence.

11 MS. RYAN: Nothing further.

12 JUDGE WEBB: Nothing further.

13 MR. WILKINS: Nothing further. No, thank  
14 you.

15 JUDGE WEBB: Okay. Thank you very much.

16 Ms. Ryan, do you have anything further to  
17 present for your case?

18 MS. RYAN: I do not.

19 JUDGE WEBB: Okay. Mr. Wilkins, you may  
20 present your case.

21 MR. WILKINS: Thank you. I would first  
22 call Bobby Myers.

23 JUDGE WEBB: All right.

24 Would the court reporter, please, swear the

1 witness.

2

3 BOBBY MYERS, produced, sworn, and examined  
4 as a witness on behalf of the Respondents, testified and  
5 deposed as follows:

6 DIRECT EXAMINATION

7 BY MR. WILKINS:

8 Q. State your name for the record, please.

9 A. Bobby G. Myers.

10 Q. And Bobby, where do you live?

11 A. I live in Cobden.

12 Q. And where do you live in relation to the  
13 property that's been testified about today?

14 A. Probably about four miles east. I live in  
15 the city limits of Cobden.

16 Q. Now, you are familiar with the property  
17 that they're talking about?

18 A. Yes, I am.

19 Q. And how are you familiar with it?

20 A. I am familiar -- that's my home place.  
21 That's where I grew up at. That's where my momma and  
22 dad was. That's where he died at, you know. That's my  
23 home.

24 Q. And approximately how many acres are there?

28

1 A. Seventy-nine acres.

2 Q. Okay. Part of that property was deeded off  
3 at some point in time back in the 80's, was it not, to  
4 your brother, Donald?

5 A. Yeah, that's correct.

6 Q. And approximately how much was deeded off?

7 A. He received one acre. I think that was  
8 probably back in early 60's when I was in Germany at the  
9 time. I think they gave him an acre to build a home on.

10 Q. Okay.

11 A. One acre. Used to be 80 acres there.

12 Q. And that's where he lives at now; is that  
13 correct?

14 A. No, he lives in Alto Pass now. He only  
15 been there, I think what, a couple years you've been up  
16 there?

17 MR. DONALD MYERS: Going on three years.

18 THE WITNESS: Three, yeah.

19 BY MR. WILKINS:

20 Q. I'm going to hand you what's been marked as  
21 Respondent's Exhibit 1 and ask if you recognize that  
22 document?

23 A. Yes, I do.

24 Q. And what is that document?

1           A.     This is -- my dad, before he died in '89,  
2 he deeded over to individuals in the family, which was  
3 Harold, Donald, Barbara and myself, one-fourth of the  
4 farm.

5           Q.     Okay.

6           A.     That's what this deed to this is.

7           Q.     And as far as you know that's still the  
8 ownership of that property; is that correct?

9           A.     Still the ownership of this property, yes,  
10 sir.

11          Q.     All right.

12                     And what has the farm been used for since  
13 it was deeded over to you and your siblings?

14          A.     Well, for several years it was farmed. And  
15 then when dad died it just -- everything kind of quit.

16                     Donald has had an auto salvage business  
17 there for a lot of years even before dad and mom died  
18 and basically, that's what it's been used for.

19          Q.     Okay.

20          A.     We have a mining operation, but that's  
21 different than this.

22          Q.     Okay. And have you had any involvement  
23 whatsoever in the salvage operation?

24          A.     No, sir.

1 Q. All right.

2 Now, you have had heard testimony here  
3 today that your name appeared on the, basically, on the  
4 tax records; is that correct?

5 A. That's correct.

6 Q. All right.

7 And do you know how your name appeared on  
8 those tax records?

9 A. When this deed was -- was made I  
10 voluntarily accepted the responsibility receiving the  
11 tax bill and seeing it was paid. And I've been doing  
12 that for almost 20 years -- over 20 years now mainly  
13 because I am the treasurer of this county, have been for  
14 26 years. I have access to all the tax records and I  
15 agreed to pay it get it paid.

16 Q. Okay. Now, earlier in the testimony  
17 presented here the Petitioner's Exhibit 2 was introduced  
18 into evidence. I'm going to hand you that, ask if you  
19 can identify that document?

20 A. I remember first getting this and it was my  
21 understanding and after talking to my brother and he  
22 agreed that they were going to get it cleaned up. And I  
23 agreed that I would hopefully see that it would get  
24 cleaned up.

1 Q. Okay.

2 A. But it didn't -- it didn't happen, all of  
3 it, but he did clean a lot of it up.

4 Q. Okay. Now, has your other brother, Harold,  
5 and your sister, Barbara, ever taken any responsibility  
6 or involvement in this property?

7 A. No.

8 Q. You believe that they should have been  
9 cited as well as an owner of this property based on what  
10 I've handed you as Respondent's Exhibit 1?

11 A. Yes. Yes, sir, I do.

12 Q. Do you derive any income from the property,  
13 salvage operation that is being operated by Donald?

14 A. No, I've never been involved in his  
15 operation, his salvage operation.

16 Q. Did you ever deposit any of the items on  
17 the property?

18 A. No, sir.

19 Q. Did you ever help remove any of the items  
20 on the property?

21 A. No, sir.

22 Q. Did you ever contract with anyone to either  
23 place any items there or remove any items from there?

24 A. No, sir.



1 Q. Okay. How often do you go out there to  
2 that property?

3 A. Not very often. My job is here at the  
4 county at the courthouse and I very seldom go out there.

5 MR. WILKINS: I have nothing further of  
6 this witness. Thank you.

7 JUDGE WEBB: Thank you.

8 Ms. Ryan?

9 CROSS-EXAMINATION BY MS. RYAN:

10 Q. Mr. Myers, when you said you talked to your  
11 brother, are you referring to Donald?

12 A. Yes.

13 Q. Then with respect to this Exhibit 2 --

14 A. That's correct.

15 Q. Okay. And I don't know if this was made  
16 clear, but are Harold and Barbara also your siblings?

17 A. Yes.

18 Q. Okay.

19 A. Yes.

20 MS. RYAN: Thank you. That's all.

21 THE WITNESS: Everyone has one-fourth  
22 interest in that.

23 MS. RYAN: Right. Thank you.

24 JUDGE WEBB: Nothing further for you?

1 MR. WILKINS: Nothing further.

2 JUDGE WEBB: Okay. Thank you very much,

3 Mr. Myers.

4 THE WITNESS: Okay.

5 MR. WILKINS: I'm going to, basically, call

6 Donald Myers as well --

7 JUDGE WEBB: Okay.

8 MR. WILKINS -- at this point. Thank you.

9 JUDGE WEBB: All right.

10 If court reporter would, please, swear in

11 Mr. Donald Myers.

12

13 DONALD MYERS, produced, sworn, and examined

14 as a witness on behalf of the Respondents, testified and

15 deposed as follows:

16 DIRECT EXAMINATION

17 BY MR. WILKINS:

18 Q. State your full name for the record,

19 please, Donald?

20 A. Donald Myers. Donald E. Myers.

21 Q. Okay. Do you also have a nickname that

22 people call you?

23 A. Sonny.

24 Q. All right.

1                   That's the way you're known by most people  
2 in this area; is that correct?

3           A.     Yeah, a lot of people know me by that name.

4           Q.     Now, you've operated what I'm going to call  
5 as a salvage operation on your parents' previously owned  
6 farm previously owned by your parents for many years; is  
7 that correct?

8           A.     Yeah, about 40 years.

9           Q.     All right.

10                   Has it always been at the location that we  
11 talked about here today?

12          A.     It sure has.

13          Q.     Okay. Now, you've heard the testimony of  
14 Mr. Gross that he inspected the property and found a  
15 large number of items which he believes violate the law;  
16 is that correct?

17          A.     Well, yeah, that's what he said. Yeah.

18          Q.     All right.

19                   What is your position with respect to the  
20 violations that he's alleging against you, Mr. Myers?

21          A.     Well now, the letter that I got from them  
22 stated that they would come in and clean up the tires  
23 and oil free of charge.

24                   Most of the cars that is in these pictures

1 has already been disposed of and lot of them has, like I  
2 say, done been junked out, hauled off, sold for scrap.

3 Q. Okay.

4 A. Now the tires, I went through these tires,  
5 you can see in these pictures, and gathered the steel  
6 out of them and lined the tires up for them to pick them  
7 up.

8 Q. Did you receive value for the cars?

9 A. Value? The boy did, yeah.

10 Q. Okay. When you say the boy, who's he?

11 A. Junior. I'm more or less, I had my heart  
12 attack in '99 and I pretty well let him do anything  
13 since then, because I haven't been able to do that much.

14 Q. Okay.

15 A. And he's got the receipts and everything  
16 when he's hauled these junk cars off, along with the tin  
17 and stuff that we gathered up.

18 Q. Okay. So, you received compensation for  
19 those items; is that correct?

20 A. Right.

21 Q. All right.

22 A. Uh-huh.

23 Q. Now, Mr. Gross testified that there was --  
24 I believe he says -- he called it domestic waste, I

1 believe is the phrase that he used for an old  
2 refrigerator, items like that. Do you recall there  
3 being those items out there?

4 A. Well, if there was they'd been hauled off.

5 Q. Okay.

6 A. When he -- when he tested it if them was  
7 out there.

8 Q. Do you know where they came from?

9 A. No.

10 Q. Okay.

11 A. Because out there -- I live up Alto. I've  
12 lived up there ever since '05, because I had to move up  
13 there on account of wife's health. And people would  
14 just bring stuff and dump it off. Well, and I have had  
15 to clean it up. And that's -- and there's no way of  
16 knowing, because you -- I've caught people dumping stuff  
17 and turn them into the law, but they wouldn't do  
18 anything about it. And I have had to clean it up. And  
19 that's what I've done all them years. Uh-huh.

20 Q. Now, we've been talking here about a deed  
21 that was purportedly made by your father,  
22 Paul Brian Myers in 1989, which deeded the farm property  
23 to you, Bobby, Harold and Barbara. Are you familiar  
24 with that document?

1           A.     Yes.  Well, not document.  I knew about it  
2  yeah.

3           Q.     Okay.

4           A.     Uh-huh.

5           Q.     And you consider yourself a one-fourth  
6  interest owner --

7           A.     Right.

8           Q.     -- of that farm; is that correct?

9           A.     Right.

10          Q.     All right.

11                    Now, the salvage operation that's been  
12  operated on this property for, I think you said,  
13  40 years?

14          A.     Yeah, at least 40 years.

15          Q.     Has Harold or Bobby or Barbara ever been  
16  involved in that in any way?

17          A.     No.  No.

18          Q.     Have they ever had any concern about it?  
19  They've never received any money from it?

20          A.     No.  No.

21          Q.     It's strictly been your operation?

22          A.     It's been mine, mine and the boy's, yes,  
23  for the last --

24          Q.     Okay.

1           A.     -- I say 10 years it's been more or less  
2 the boy's.

3           Q.     Okay.

4           A.     As a matter of fact, he owns about  
5 everything out there now.

6           Q.     Okay. All right.

7           MR. WILKINS: I have nothing further.

8                   I would move to admit Respondent's  
9 Exhibit 1, which is the deed testimony has been taken  
10 concerning.

11           MS. RYAN: No objection.

12           JUDGE WEBB: Respondent's Exhibit 1 is  
13 admitted.

14                   Ms. Ryan?

15           CROSS-EXAMINATION BY MS. RYAN:

16           Q.     Mr. Myers, you said you got a letter from  
17 Illinois EPA saying they would clean up the tires for  
18 you. Can I show you what I've marked as Exhibit 3 and I  
19 apologize -- oh, wait. That's actually the good one.  
20 I'm sorry. Hold -- let me take that one back. I'm  
21 going to give that one to the judge. I'll give you the  
22 one that's stapled and I'll give you this one. I had  
23 copier issues, I guess.

24           MR. WILKINS: At least it's stapled.

1 BY MS. RYAN:

2 Q. Is this the letter you were referring to?

3 A. (No response.)

4 Q. If it helps, the issue with regard to the  
5 tires is at the bottom of the first page under paragraph  
6 three there.

7 A. Well, now this could have been. That's  
8 been a long time ago.

9 Q. Okay.

10 A. Uh-huh.

11 Q. Did you -- you had more than a thousand  
12 tires at your site at that time, didn't you?

13 A. I don't think so.

14 Q. You don't think so. Okay.

15 You didn't sign a consensual removal  
16 agreement and send it back the Illinois EPA, did you?

17 A. Well, I didn't know I had that.

18 Q. Thank you.

19 MS. RYAN: I would -- I have no other  
20 questions, but I would move to introduce Exhibit 3 in  
21 evidence as the apparent letter to which he was  
22 referring to in his previous testimony.

23 JUDGE WEBB: Any objection to that?

24 MR. WILKINS: Well, I object for the record



1 only because I don't think there's been sufficient  
2 foundation to show that that is the letter that he  
3 received. I think the testimony stands for itself that  
4 he did receive a letter that's similar to that and I  
5 would stipulate to that fact.

6 JUDGE WEBB: Okay. Well, I'll go ahead and  
7 admit it.

8 MR. WILKINS: Okay.

9 MS. RYAN: Thank you.

10 JUDGE WEBB: I'm sorry, did you have any  
11 further questions?

12 MR. WILKINS: No, I did not. No.

13 JUDGE WEBB: And no further questions?

14 MS. RYAN: I do not.

15 JUDGE WEBB: Okay. All right. Thank you,  
16 Mr. Myers.

17 The transcript of these proceedings will be  
18 available from the court reporter by December 16th and  
19 will be posted on the Board's web site.

20 The public comment deadline is  
21 December 30th. Any public comment must be filed in  
22 accordance with Section 101.628 of the Board's  
23 procedural rules.

24 The Complainant's brief is due by

1 January 5th of 2009. And the Respondent's brief is due  
2 by January 26th, 2009. The mailbox rule will apply.

3 Ms. Ryan, would you like to make a closing  
4 argument?

5 MS. RYAN: No, I would like to reserve that  
6 for my brief thank. You.

7 JUDGE WEBB: Mr. Wilkins, would you like to  
8 make a closing argument?

9 MR. WILKINS: I would choose to do the same  
10 thing. Thank you.

11 JUDGE WEBB: Okay. As there are no members  
12 of the public present to make any statements on the  
13 record I will proceed to make a statement as to the  
14 credibility of the witnesses testifying during this  
15 hearing: Based on my legal judgment and experience I  
16 find all of the witnesses testifying to be credible.

17 At this time I will conclude the  
18 proceedings and I thank all of you for your  
19 participation.

20  
21  
22  
23  
24

1 STATE OF MISSOURI. )  
2 ) SS  
3 COUNTY OF JEFFERSON )  
4

5 I, Bobbi L. Hamlin, a Notary Public in and for  
6 the County of Jefferson, State of Missouri, DO HEREBY  
7 CERTIFY that pursuant to agreement between the parties  
8 the following hearing was held before me on December 4,  
9 2008, at The Union County Courthouse, Jonesboro,  
10 Illinois, parties were first duly sworn by me to tell  
11 the whole truth of all knowledge touching upon the  
12 matter in controversy aforesaid so far as the witnesses  
13 should be interrogated concerning the same; that the  
14 witnesses were examined and said examination was taken  
15 down in shorthand by me and afterwards transcribed upon  
16 the typewriter and said hearing is herewith returned.

17  
18 IN WITNESS WHEREOF, I have hereunto set my  
19 hand and affixed my Notarial Seal this 14th day of  
20 December, 2008.

21  
22 \_\_\_\_\_  
23 Notary Public, CCR, RMR  
24 Illinois License #084-002797  
My Commission Expires June 26, 2009