

ORIGINAL

ILLINOIS POLLUTION CONTROL BOARD
August 5, 2015

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ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Complainant,)

vs.)

MARK E. BOSECKER,)

Respondent.)

STATE OF ILLINOIS
Pollution Control Board

AC 15-25

 ORIGINAL

The following is the transcript of a hearing held in the above-captioned matter, taken stenographically by Kimberly Gammon, CSR, a notary public within and for the County of Clinton and State of Illinois, on the 2nd day of September, 2015, commencing at 11:00 a.m.

1 PRESENT:

2

HEARING TAKEN BEFORE:

3

ILLINOIS POLLUTION CONTROL BOARD

1021 North Grand Avenue East

4

Springfield, Illinois 62794-9274

BY: CAROL WEBB

5

APPEARANCES:

6

MICHELLE M. RYAN, ESQUIRE

Attorney at Law

7

1021 North Grand Avenue

Springfield, Illinois 62794-9276

8

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MARK BOSECKER

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13

COMPLAINANT'S EXHIBIT:

Admitted

14

Exhibit No. 1

14

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1 HEARING OFFICER WEBB: Good morning, my
2 name is Carol Webb and this is the hearing for
3 AC 15-25 IEPA versus Mark Bosecker. It is
4 September 2 and we are beginning shortly before
5 11:30 a.m. There are no members of the public
6 present. In this case the agency alleges that
7 Respondent violated Sections 21.P1 and 55-K1 of
8 the Environmental Protection Act at a site located
9 in rural Mt. Carmel in Wabash County. The
10 Pollution Control Board members will make the
11 final decision in this case. My purpose is to
12 conduct the hearing in a neutral and orderly
13 manner so that we have a clear record of the
14 proceedings. This hearing was noticed pursuant to
15 the Act and the Board's rules and will be
16 conducted pursuant to Sections 101.600 through
17 101.632 of the Board's procedural rules. At this
18 time I will ask the parties to please make their
19 appearances on the record.

20 MS. RYAN: Michelle Ryan, Special
21 Assistant Attorney General for the Illinois EPA.
22 I have a formal appearance there.

23 HEARING OFFICER WEBB: And Mr. Mark
24 Bosecker, you are here representing yourself; is

1 that correct?

2 MR. BOSECKER: Correct.

3 HEARING OFFICER WEBB: Are there any
4 preliminary matters to discuss on the record?

5 MS. RYAN: No.

6 HEARING OFFICER WEBB: Would the agency
7 like to give an opening statement?

8 MS. RYAN: Yes, we believe the evidence
9 today will show that on December 8, 2014, open
10 dumping resulting in litter as well as water
11 accumulating in used or waste tires were observed
12 at the property in rural route Mt. Carmel in
13 Wabash County, Illinois, owned by Mr. Bosecker and
14 that there are no legal defenses to this
15 activity.

16 HEARING OFFICER WEBB: Mr. Bosecker,
17 would you like to make any opening statement, you
18 don't have to.

19 MR. BOSECKER: No.

20 HEARING OFFICER WEBB: The agency may
21 call its witness.

22 MS. RYAN: I call Garrison Gross.

23 HEARING OFFICER WEBB: Would the court
24 reporter please swear in the witness.

1
2 GARRISON GROSS, being first duly sworn,
3 testified and deposed as follows:
4

5 DIRECT EXAMINATION

6 By Ms. Ryan

7 Q. State your name, please.

8 A. **Garrison Gross.**

9 Q. What's your job?

10 A. **I am an environmental protection**
11 **specialist with the Illinois EPA Bureau of Land**
12 **out of Marion.**

13 Q. How many years have you been an
14 environmental protection specialist for EPA?

15 A. **11 years, around 11 years.**

16 Q. What are your duties as an EPS?

17 A. **We take complaints and go out and do**
18 **inspections, salvage yards, open dumps, hazardous**
19 **waste sites, landfills, tire storage facilities.**

20 Q. Over the 11 years you been working
21 for Illinois EPA approximately how many
22 inspections have you conducted?

23 A. **I conduct approximately 50 to 80 per**
24 **year.**

1 Q. What is your educational background?

2 A. I have two bachelors degrees, one
3 from -- one in environmental biology from EIU in
4 Charleston and a bachelor's degree in safety
5 engineering from Murray State University in
6 Kentucky.

7 Q. In addition to that educational
8 background, do you have any other training related
9 to your job?

10 A. Yes, we do an actual training,
11 Hazwoper training is annual and then we do
12 refresher type training periodically.

13 Q. Are you familiar with a facility in
14 or near Mt. Carmel known as Mt. Carmel slash
15 Bosecker, Mark E.?

16 A. Yes.

17 Q. Where is that property located if
18 you can describe that?

19 A. It's about eight to ten miles south
20 of Mt. Carmel between Cowling and Keenesburg just
21 off of Route 1.

22 Q. Who owns that property?

23 A. Mark Bosecker.

24 Q. How many inspections have you

1 conducted at that property?

2 **A. I have actually conducted about**
3 **seven inspections at that site, the first four**
4 **Mark Bosecker was not the owner, his father Norman**
5 **Bosecker was the owner of the property and the**
6 **last three have been since Mark has owned it.**

7 **Q. I am going to hand you what I have**
8 **marked for identification as Exhibit 1, can you**
9 **tell me if you recognize that document?**

10 **A. I do.**

11 **Q. What is that?**

12 **A. It's an inspection report from**
13 **December 8, 2014.**

14 **Q. What was the inspection concerning?**

15 **A. It was -- the actual inspection**
16 **checklist is a tire storage checklist, that's what**
17 **we would use when we find more than 50 tires at a**
18 **site but it also includes open dumping at the last**
19 **page of the inspection report, would include open**
20 **dumping violations.**

21 **Q. Where was this inspection conducted?**

22 **A. 7053 East 350 Road in Mt. Carmel,**
23 **this was at Mark Bosecker's farmhouse.**

24 **Q. Have you paged through this entire**

1 document?

2 **A. Yes.**

3 Q. Is this a fair, accurate and
4 complete copy of your report?

5 **A. Yes.**

6 Q. Can you describe this property
7 generally?

8 **A. It's rural setting, maybe about an
9 acre, little bit bigger than that for the parcel
10 where the home is located at, surrounded by farm
11 fields. There is a farmhouse on it, there is a
12 barn and I believe two or three sheds.**

13 Q. Who took the photographs attached to
14 your report?

15 **A. I did.**

16 Q. Starting with photograph No. 1 can
17 you go through them and tell us what they show?

18 **A. No. 1 is an off site photograph just
19 showing the cars on the property, No. 2 is an off
20 site photograph showing vehicles at the property,
21 No. 3 is the same, No. 4 is up beyond the house
22 looking back towards a couple of the sheds, No. 5
23 is on site when I entered the property and this
24 just shows numerous vehicles, some of them appear**

1 to be not in use or usable in their current
2 condition, some of them do appear to be usable but
3 looking at the license plate, a lot of them had
4 expired registrations on them. No. 6, that Dodge
5 truck has a flat tire so it's obviously not usable
6 in its current condition. A lot of these vehicles
7 also have weeds grown up around them so it gives
8 the impression that they have not been driven for
9 some time. No. 7, that is looking out towards the
10 barn, there is small amount of demolition waste
11 there by the red Neon, the Neon has grass growing
12 up around it as well.

13 Q. Can you identify more specifically
14 which red car you are referring to, I see two?

15 A. The one in the foreground, the front
16 one, the one further away I believe that is a Ford
17 Taurus. The kind of turquised colored Ford
18 Ranger looking off the edge of the porch, that has
19 also got weeds growing up around it, No. 8 again
20 is looking off the porch of the house back towards
21 the cars in front of the barn.

22 Q. Is that the same pickup truck that
23 we saw in the prior photograph No. 6?

24 A. The Dodge, you talking about No. --

1 Q. No. 8 and No. 6, is that the same
2 vehicle, vehicle in the center of the photograph?

3 A. Yes, it is. No. 9 is looking up
4 towards the sheds again back towards that small
5 amount of demolition debris and the two vehicles
6 parked there by the shed that did not appear to be
7 usable in their current condition or hadn't been
8 driven in a while because of the weeds growing up
9 around them, 10 is another picture of that same
10 Dodge pickup truck with a flat tire and the Neon
11 with the weeds around it and a mower, looks like
12 some kind of a pull behind mower that might go
13 behind a four-wheeler with weeds grown up around
14 it. No. 11, that vehicle did not have any current
15 plates on it at all. No. 12, that vehicle had an
16 expired plate and had some weeds growing up on the
17 back side of it, No. 13 that one has weeds growing
18 up around it as well, No. 14 that one had an
19 expired registration, No. 15 got a little bit of
20 weeds around it but also had an expired
21 registration, No. 16 those have got significant
22 amount of weeds growing up around them, the one
23 truck's loaded with -- I don't know if that's
24 boards or metal or exactly what that is loaded

1 with, looks like a piece of plywood on top of it
2 and then an axle and wheels, No. 17 is another
3 truck got some weeds growing around it but the
4 tires are flat on it, had trash in the back,
5 didn't appear to be driveable in its condition,
6 No. 18 stack of tires, some of them were off rim,
7 some lumber thrown on top of it. Those are also
8 grown up in weeds, 19 you can see more of the
9 tires even more grown up in weeds. Some of those
10 are -- the majority of those look like they are on
11 rim, there is one I can see that it's on the rim
12 but it's not holding air, No. 20 some of those
13 tires are on rims, some of them are off the rim,
14 there are trees growing near those, this is up by
15 the barn. The old pickup truck which you can just
16 see a portion of it in 20 had trees growing up
17 around it, it didn't appear to have been driven in
18 a long time, 21 is basically the same from 20,
19 tires and the old truck, 22 is a photograph
20 looking inside the barn of more tires, most of
21 those are on rim, they are being protected from
22 the rain in there, this site was the tire storage
23 site so he's got more than 50 and should have
24 registered with the agency. 23 couple of waste

1 tires there with water in them and you can see the
2 leaf litter organic material that has blown in
3 those tires which would be a food source for
4 mosquito larva, No. 24 is the Ford Taurus with an
5 expired plate, No. 25 waste tires and lumber, this
6 lumber, lot of it is pretty rotted looking, it's
7 been there for quite some time.

8 Q. Right in front of that tree there is
9 a rectangular black thing, can you identify what
10 that is?

11 A. That may be a gas tank from a
12 vehicle, I am not really sure. 26 few more waste
13 vehicles didn't appear to have been driven for a
14 while, weeds growing up around them, 27 that
15 vehicle had a tree growing right next to it,
16 didn't have a valid plate, No. 28 again another
17 vehicle, tree growing up around the side of the
18 door so it had been there for quite some time for
19 that to happen, no plate, No. 29 it's kind of an
20 assortment of tires and scrap metal and vehicle
21 parts and I don't know what the big black thing is
22 in the background, I don't know if that is another
23 fuel tank, No. 30 those two vehicles were totally
24 grown up in saplings and trees and briars, No. 31

1 back behind the barn again, camper shell, more
2 waste tires, trees growing up around them, No. 32
3 is on old wagon, looked to be several 55 gallon
4 drums, more tires, more lumber in that area,
5 No. 33 is just another view from the other side of
6 the old wagon, more tires, more lumber, few pieces
7 of metal, No. 34 is a utility trailer, the back
8 tire on it is flat, it's got lumber and tires off
9 rim on it, No. 35 is one of the tires from the
10 utility trailer holding water with leaf litter
11 organic material collected in that, No. 36 is more
12 tires off the rim, like a hood to a vehicle on the
13 ground, 37 more tires with water in them, 38
14 another vehicle at the far corner of the property
15 grown up in weeds, 39 these vehicles were not
16 considered waste vehicles, they did have expired
17 plates on them, also 40 same situation, was not
18 considered to be a waste vehicle but it did have
19 expired plate.

20 Q. Do these photographs accurately
21 depict what you saw at the property on December 8,
22 2014?

23 A. Yes.

24 Q. When was this report generated?

1 **A. Within a few weeks of December the**
2 **8th.**

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

5 **A. Yes.**

6 Q. Is it the regular course of Illinois
7 EPA business to make such records at or reasonably
8 after the event reflected thereon?

9 **A. Yes.**

10 MS. RYAN: At this time I move Exhibit 1
11 into evidence.

12 HEARING OFFICER WEBB: Exhibit 1 is
13 admitted into evidence.

14 MS. RYAN: I don't have anything
15 further.

16 HEARING OFFICER WEBB: Mr. Bosecker, do
17 you have any questions for the agency witness?

18 MR. BOSECKER: No.

19 HEARING OFFICER WEBB: If the court
20 report will swear you in, you can begin your
21 testimony.

22
23 MARK BOSECKER, being first duly sworn,
24 testified and deposed as follows:

1 MR. BOSECKER: We'll just go back
2 through pictures, first I'd like to say I was
3 given until roughly September to at least get the
4 tires and stuff done and get some cars moved and I
5 have done that. I am going to skip to No. 6,
6 black and silver Dodge truck, the tractor, the red
7 and silver vehicle is gone. The red vehicle
8 behind it, the Neon is gone. Next picture, the
9 green truck in the background is gone. The maroon
10 Taurus is gone.

11 HEARING OFFICER WEBB: You are looking
12 at pictures 7 and 8?

13 MR. BOSECKER: 7, I will skip to 9, all
14 the -- the yellow four-wheeler is gone which it
15 was actually used, I just had everything layed up
16 against it which is also gone. The lawnmower is
17 gone, everything in the background wood wise is
18 gone except for the shopping cart. That green
19 Ranger is also gone. I will skip to No. 16,
20 everything in the back of the black Chevy truck is
21 my building materials for my house which is moved
22 and under a porch, the axle is gone and the
23 vehicles have all been moved. The blue truck is
24 in a garage. I will skip to No. 18, all the tires

1 there and the stuff behind the four-wheeler are
2 gone. The wood is moved but not gone, I have
3 somebody coming to get it of course. Same as in
4 picture 19, all those tires are gone. No. 20, all
5 those rims and tires, they are gone. All the
6 building material you can see is moved, the same
7 in 21, they are gone. Picture 22 I was told I
8 could keep the tires as long as I had them under
9 roof and sent in my \$100 with that form which I
10 did. No. 23, those are gone. Picture 24, that
11 vehicle is gone along with the axle in the
12 background or beside it. No. 25, rims and tires
13 that are there are stored in building, all the
14 lumber is gone. Picture No. 26, both red vehicles
15 are gone. 27, that vehicle is gone, 28 has not
16 been moved yet. In picture 31, half of those
17 tires are gone. I was waiting for the same person
18 to come pick up his camper shell and other tires
19 but I will have to move them. No. 32, all the
20 tires other than the four on the wagon are gone.
21 The wagon and everything there is sitting on
22 concrete so I didn't think that was a problem.
23 Picture No. 34, that trailer and every tire there
24 is gone. The waste material was all taken up to

1 Sumner dump along with other materials I had
2 laying around. No. 35, those tires are gone. I
3 am not exactly sure where they are or were but I
4 did clean up all the tires other other than five.
5 No. 36, those tires are gone. The hoods are over
6 my water drain well so nobody will fall into it or
7 nothing or nothing bad will happen with an animal
8 or something. No. 37, those were by the well,
9 those are gone. No. 38, that truck is removed,
10 it's gone and the rest of them are -- well not all
11 moved, all but three have been moved. The one in
12 picture No. 21 has not been moved but will be
13 moved in the next week inside a building. Picture
14 No. 28 and 30, those three vehicles are scheduled
15 to be moved as soon as they can be done. Picture
16 No. 29 is a bunch of garbage that I will get to as
17 soon as I move the vehicle in picture 28 but there
18 are no tires laying out there, nothing holding
19 water, I made sure of that and I think that is
20 about it. I was told I needed to do all of that
21 by September and that's pretty much what I did.

22 HEARING OFFICER WEBB: Ms. Ryan, do you
23 have any questions?

24 MS. RYAN: Mr. Bosecker, all this clean

1 up that you described, that all happened after
2 December 8, 2014; is that right?

3 MR. BOSECKER: Correct.

4 HEARING OFFICER WEBB: The transcript is
5 due by September 10 and will be posted on the
6 Board's website. The public comment deadline is
7 September 16, any public comment must be filed in
8 accordance with Section 101.628 of the Board's
9 procedural rules. The Agency's brief is due by
10 September 24 and Respondent's brief is due by
11 October 8. If we do not receive a brief by
12 October 8, we will assume that none will be
13 filed. Would the agency like to make a closing
14 argument?

15 MS. RYAN: No, I would like to reserve
16 that for my brief.

17 HEARING OFFICER WEBB: Mr. Bosecker,
18 would you like to make any closing argument?

19 MR. BOSECKER: I was just wondering what
20 all you said meant.

21 HEARING OFFICER WEBB: We can talk about
22 that after the hearing.

23 MR. BOSECKER: She knew where I was
24 going with that, I have a question to ask her.

1 HEARING OFFICER WEBB: After the
2 hearing? Yeah, let's do it after the hearing. At
3 this time I will conclude the proceedings, we
4 stand adjourned and I thank you for your
5 participation.

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1 STATE OF ILLINOIS)

2) SS.

3 COUNTY OF CLINTON)

4

5

6

7 I, Kimberly Gammon, do hereby certify on
8 oath that the above and foregoing transcript is a
9 true and correct transcript of the proceedings had
10 in the above-entitled cause on the date set forth
11 herein.

12

13 Dated this 4th day of September 2015

14

15

16

17

Kimberly Gammon

18

Kimberly Gammon, CSR 084-3586

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<p style="text-align: center;">A</p> <p>a.m 1:11 3:5 above-entitled 20:10 AC 1:5 3:3 accumulating 4:11 accurate 8:3 accurately 13:20 acre 8:9 Act 3:8,15 activity 4:15 actual 6:10 7:15 addition 6:7 adjourned 19:4 admitted 2:13 14:13 agency 1:3 3:6 4:6,20 11:24 14:17 18:13 Agency's 18:9 ahove-caption... 1:9 air 11:12 alleges 3:6 amount 9:10 10:5,22 animal 17:7 annual 6:11 appear 8:24 9:2 10:6 11:5,17 12:13 appearance 3:22 appearances 2:5 3:19 approximately 5:21,23 area 13:4 argument 18:14 18:18 Assistant 3:21 assortment 12:20 assume 18:12 attached 8:13</p>	<p>Attorney 2:6 3:21 August 1:1 Avenue 2:3,7 axle 11:2 15:22 16:11</p> <p style="text-align: center;">B</p> <p>bachelor's 6:4 bachelors 6:2 back 8:22 9:20 10:4,17 11:4 13:1,7 15:1,20 background 6:1 6:8 12:22 15:9 15:17 16:12 bad 17:7 barn 8:12 9:10 9:21 11:15,20 13:1 basically 11:18 beginning 3:4 believe 4:8 8:12 9:16 beyond 8:21 big 12:21 bigger 8:9 biology 6:3 bit 8:9 10:19 black 12:9,21 15:6,20 blown 12:2 blue 15:23 Board 1:1 2:3 3:10 Board's 3:15,17 18:6,8 boards 10:24 Bosecker 1:6 2:12 3:3,24 4:2 4:13,16,19 6:15,23 7:4,5 14:16,18,23 15:1,13 17:24 18:3,17,19,23</p>	<p>Bosecker's 7:23 briars 12:24 brief 18:9,10,11 18:16 building 15:21 16:6,13 17:13 bunch 17:16 Bureau 5:11 business 14:4,7</p> <p style="text-align: center;">C</p> <p>call 4:21,22 camper 13:1 16:18 car 9:14 Carmel 3:9 4:12 6:14,14,20 7:22 Carol 2:4 3:2 cars 8:19 9:21 15:4 cart 15:18 case 3:6,11 cause 20:10 center 10:2 certify 20:7 Charleston 6:4 checklist 7:16 7:16 Chevy 15:20 clean 17:4,24 clear 3:13 Clinton 1:10 20:3 closing 18:13,18 collected 13:11 colored 9:17 come 16:18 coming 16:3 commencing 1:11 comment 18:6,7 Complainant 1:4 2:10 COMPLAIN...</p>	<p>2:13 complaints 5:17 complete 8:4 concerning 7:14 conclude 19:3 concrete 16:22 condition 9:2,6 10:7 11:5 conduct 3:12 5:23 conducted 3:16 5:22 7:1,2,21 considered 13:16,18 Control 1:1 2:3 3:10 copy 8:4 corner 13:14 correct 4:1,2 18:3 20:9 County 1:10 3:9 4:13 20:3 couple 8:22 11:24 course 14:4,6 16:3 court 4:23 14:19 Cowling 6:20 CSR 1:10 20:18 current 9:1,6 10:7,14</p> <p style="text-align: center;">D</p> <p>date 20:10 Dated 20:13 day 1:11 20:13 deadline 18:6 debris 10:5 December 4:9 7:13 13:21 14:1 18:2 decision 3:11 defenses 4:14 degree 6:4 degrees 6:2</p>	<p>demolition 9:10 10:5 depict 13:21 deposed 5:3 14:24 describe 6:18 8:6 described 18:1 Direct 2:11 5:5 discuss 4:4 document 7:9 8:1 Dodge 9:4,24 10:10 15:6 door 12:18 drain 17:6 driveable 11:5 driven 9:8 10:8 11:17 12:13 drums 13:4 due 18:5,9,10 duly 5:2 14:23 dump 17:1 dumping 4:10 7:18,20 dumps 5:18 duties 5:16</p> <p style="text-align: center;">E</p> <p>E 1:6 6:15 East 2:3 7:22 edge 9:18 educational 6:1 6:7 eight 6:19 EIU 6:3 engineering 6:5 entered 8:23 entire 7:24 environmental 1:3 3:8 5:10,14 6:3 EPA 3:21 5:11 5:14,21 14:3,7 EPS 5:16</p>
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