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ILLINOIS POLLUTION CONTROL BOARD

October 21, 2008

ILLINOIS ENVIRONMENTAL))	
PROTECTION AGENCY)	
Complainant,)	
)	
Vs.)	AC 08-28
)	(IEPA N. 52-08-AC)
)	(Administrative Citation)
)	
ROB PINSKI,)	
)	
Respondent.)	

Proceedings held on October 21, 2008, at 10:30 a.m.,
at Perry County Courthouse, 1 Public Square,
Pinckneyville, Illinois, before Carol Webb, Hearing
Officer.

Reporter: Angie R. Kelly, CSR#084-004498

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A P P E A R A N C E S

ILLINOIS POLLUTION CONTROL BOARD
HEARING OFFICER

BY: Carol Webb
1021 North Grand Ave.
Springfield, Illinois 62794

FOR ENVIRONMENTAL PROTECTION AGENCY
SPECIAL ASSISTANT ATTORNEY GENERAL

BY: Ms. Michelle Ryan
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

E X H I B I T S

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1 P R O C E E D I N G S

2 (July 19, 2007)

3 HEARING OFFICER WEBB: Good morning, my name
4 is Carol Webb this is the hearing for AC08-28 IEPA verse
5 Rob Pinski. It is October 21, and we are beginning at
6 10:30 a.m. I will note for the record that Mr. Pinski is
7 not present, and additionally there are no members of
8 the public present.

9 At issue in this case, the EPA's allegation
10 that the Respondent violated section P1, P3, and P4, of
11 the Environmental Protection Act, at a site located at
12 1043 North Walnut Street in St. John's, Perry County.

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

17 I will also assess the credibility of any
18 witnesses on the record at the end of the hearing. This
19 hearing was noticed pursuant the Acts in the Board's
20 rules, and will be conducted pursuant to sections
21 101.600 through 101.632 of the board's procedural rules.

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

24 MS. RYAN: Michelle Ryan, special assistant

1 attorney general for the Illinois EPA. I have my formal
2 entry of appearance, and since Mr. Pinski is not here, I
3 will be sending that to him when I get back to the
4 office.

5 HEARING OFFICER WEBB: Thank you. And again,
6 Mr. Pinski is not here, Ms. Ryan, would you like to make
7 an opening statement.

8 MS. RYAN: Actually, I have a preliminary
9 issue.

10 HEARING OFFICER WEBB: Okay.

11 MS. RYAN: Madam Hearing Officer. We noticed
12 in reviewing the administrative citation that was filed
13 in the case, that in conjunction with the inspection
14 report that was attached to the citation, that there was
15 a typographical error on page two.

16 HEARING OFFICER WEBB: Okay.

17 MS. RYAN: We had listed three violations,
18 21P1, 21P3 and 21P5, and the mistake is in that third
19 violation, which should have read 21P7, rather than
20 21P4. That was a typographical error. The second report
21 does conform to the P7, and that is the count that we're
22 trying to prove today. So I do have a replacement page
23 here.

24 HEARING OFFICER WEBB: Okay.

1 MS. RYAN: I don't know if you want a whole
2 another citation, but the remaining pages don't change
3 at all, so that's why I just brought the one page for
4 you. But if you want something else, we'd be happy to
5 send that in too.

6 HEARING OFFICER WEBB: I will say the
7 replacement page is probably fine, if the board wants an
8 entirely new citation, I will let you know.

9 MS. RYAN: Okay.

10 HEARING OFFICER WEBB: But we'll just assume
11 that the replacement page will be fine.

12 MS. RYAN: Okay.

13 HEARING OFFICER WEBB: Are there any further
14 preliminary matters.

15 MS. RYAN: No.

16 HEARING OFFICER WEBB: Would you like to make
17 an opening statement?

18 MS. RYAN: Yes.

19 We believe the evidence today will show that
20 on February 29, 2008 open dumping resulting in litter,
21 open burning, and the deposition of clean or general
22 construction or demolition debris occurred at the
23 property located at 1043 North Walnut Street, St. Johns,
24 Perry County, Illinois which is known as the Cosentino,

1 Pinski property.

2 HEARING OFFICER WEBB: Thank you. You may
3 call your first witness.

4 MS. RYAN: I call Sheila Williams.

5 HEARING OFFICER WEBB: Miss Williams, please
6 have a seat by the court reporter, and will the court
7 reporter please swear in the witness.

8 (Witness sworn).

9 D I R E C T E X A M I N A T I O N

10 By Ms. Ryan:

11 Q. Please state your full name, and spell your last
12 name for the court reporter?

13 A. Sheila Williams, W-I-L-L-I-A-M-S.

14 Q. What is your job?

15 A. I am an environmental protection specialist.

16 Q. And who do you work for?

17 A. The Illinois Environmental Protection Agency.

18 Q. How many years have you been an environmental
19 protection specialist for the EPA?

20 A. Roughly sixteen, seventeen years.

21 Q. What are your duties as an environmental
22 protection specialist?

23 A. I'm a field inspector, and I generate reports for
24 solid waste, RECRA, and tire sites.

1 Q. And has those been your duties throughout your
2 six years with EPA?

3 A. My first three I spent as the site assessment in
4 the site assessment program at headquarters in
5 Springfield. Since then I have been a field inspector.

6 Q. Approximately, how many inspections have you
7 conducted as a field inspector for the EPA?

8 A. In excess of 1100.

9 Q. What's your educational background?

10 A. I have a bachelor's degree in biology.

11 Q. From?

12 A. Greenville College.

13 Q. Have you had any additional training related to
14 your work?

15 A. Training provided through the agency, we have
16 annual HAZWOPER refresher courses, sampling classes,
17 computer classes, first aid, CPR, geology, just a
18 variety.

19 Q. Are you familiar with the property located at 1043
20 North Walnut Street in St. Johns?

21 A. Yes.

22 Q. Where is that property located in relation to the
23 village of St. Johns?

24 A. It's on, I'll tell you, it's a small town, I

1 would say it's fairly centralized, I can't --

2 Q. So it's actually within the city limits?

3 A. It's within the city limits, yes.

4 Q. Who owns that property?

5 A. The Perry County Supervisor of Assessment's
6 office records show that Joseph Cosentino receives the
7 real estate tax bill for that property.

8 Q. And did you determine who was responsible for the
9 waste that you eventually observed at the property?

10 A. Yes, Mr. Pinski.

11 Q. How did you make that determination?

12 A. Initially, we received a complaint about property
13 in DuQuoin that was being taken to property in St.
14 Johns. At the DuQuoin location, I spoke with
15 Mr. Pinski, and he claimed that had he had been hauling
16 some of the demolition debris to the site, in St. Johns.

17 Q. Okay. I'm going to show you what I've marked for
18 identification as Exhibit 1, and I'm going to ask you if
19 you recognize this document first?

20 A. Yes, this is the report I generated from the
21 inspection.

22 Q. Can you page through that for me?

23 A. Okay. Okay.

24 Q. Is that a fair and accurate and complete copy of

1 your report?

2 A. I believe so.

3 Q. It appears that you have two different sites
4 indicated in this report, if we could start with the
5 first site, which I believe is not the site at issue
6 today. The site you mentioned in DuQuoin?

7 A. Right.

8 Q. Is that correct?

9 A. Yes.

10 Q. That starts with the first site sketch, which is
11 indicated by West Park Street on the north side?

12 A. Right.

13 Q. And do the photographs following the site sketch
14 pertain to this demolition identity then?

15 A. Yes.

16 Q. And then following those photographs, there is
17 another site sketch?

18 A. Uh-huh.

19 Q. Which indicates Walnut Street, which is I believe
20 is the dump site in question?

21 A. Yes.

22 Q. And then the photographs following that relate to
23 that dump site; is that correct?

24 A. That is correct.

1 Q. Let's start with the first site, the demolition
2 site which is on West Park Street there. Can you tell
3 me who took the photographs at this site?

4 A. I did.

5 Q. Can you tell me what those photographs
6 demonstrated?

7 A. Sure. Okay, the first one is just a general view
8 of the picture that was being torn down, and some
9 demolition debris in the back of a truck. The second
10 one is a license plate of that truck that Mr. Pinski
11 drove away in. Picture number three is another view of
12 the house being demolished. Photo four would appear to
13 be demolition debris that had been removed from the
14 house. Number five is a closer photo of the house being
15 demolished. Number six is another view of that same
16 house.

17 Q. So all those photographs are of the same
18 building?

19 A. Yes.

20 Q. And then turning to the next set of photographs,
21 following the second site sketch, who took the
22 photographs that are attached after that. Let me make
23 it easier for you, excluding the very last set of
24 photographs, that has four top pages, who took the

1 photographs immediately following the site sketch you
2 have to that point?

3 A. That was me.

4 Q. Who took the photographs that are on the four to
5 a page, page?

6 A. Those were taken by Ron Darnel, who is the animal
7 and health officer for the city of DuQuoin.

8 Q. How did you acquire those photographs?

9 A. He e-mailed those to me the afternoon of the
10 inspection.

11 Q. Let's go through the photographs that you took,
12 and tell me what is shown in those photographs?

13 A. Okay, the first one you can see a general view of
14 the -- what I had referred to on the site sketch as area
15 A, which is it shows demolition debris, including
16 siding, wood, that had been charred, and ash, photo
17 number two, again, you can see the --

18 Q. Can I stop you for a second.

19 A. Sure.

20 Q. Can you use the photographs numbers that are
21 actually next to the photos?

22 A. Sorry.

23 Q. No, I understand why you're doing that. It will
24 make it easier if the board is going through the

1 photographs, to get the right photograph.

2 A. Okay. First one should have been number seven,
3 photo seven with the siding, demolition, wood, some of
4 which has been charred, and ash. Photo eight, again
5 more ash and charred dimensional lumber, as well as
6 siding. Also number eight, in a picture when I had blown
7 it up, it looked like there were a couple of pieces of
8 that siding that had been warped the way you would
9 expect siding to be warped, had it gotten to hot, you
10 know, had been in extreme heat.

11 Photo nine shows demolition wood, there's a piece
12 of cardboard, and more siding and ash. Photo ten, it
13 shows it's a little hard, no, I'm sorry, photo ten where
14 the vehicle tracks that were leading up to the burn
15 area. Photo eleven, it's hard to tell, because of the
16 shadowing, but it was visible when I was there to see
17 that the underside of some of the tree limbs were
18 charred, what you would expect to see from a fire, and
19 being conducted underneath.

20 Photo twelve, there's a delineation on the
21 ground, to the left was the burn area, to the right was
22 the more natural grassy area.

23 Photo thirteen was what I called area B, that was
24 dimensional lumber with metal protruding from it. Photo

1 fourteen was what I referred to as area C, had just a
2 variety of material in it. Some of that material was, as
3 in photo fifteen, it appeared to be an individual's
4 mail, that was in area C. This was addressed to Anthony
5 Cosentino, and it was the address of the open dump site.

6 Photo sixteen is again area C, it showed a
7 bowling ball, siding, shingles, demolition, landscape
8 waste.

9 Photo seventeen had like what would appear to be
10 food, cans, and a beer bottle. There was other glass,
11 and there was ash, a lot of that was charred.

12 Photo 18 showed partial burn barrel, plastics,
13 looked like charred shingles, concrete blocks and
14 plastics.

15 Q. Okay. If we could go back to the photograph 1
16 real quickly can you estimate how high on this tree the
17 charred limbs rose above the ground surface?

18 A. I would say at least fifteen, twenty 20 feet.

19 Q. Can you determine from your review of this site,
20 and the photographs that you have in front of you,
21 whether all this material came from the demolition site
22 in DuQuoin?

23 A. I cannot, I cannot say that for sure, but it does
24 look like it's typical of demolition debris, you would

1 expect to see from a house being demolished, and the
2 vinyl siding looks comparable to some of the siding that
3 was shown at the house in DuQuoin that was being torn
4 down.

5 Q. You're referring to the pile that's shown in area
6 A?

7 A. In area A, yes.

8 Q. Can you determine whether any of the materials in
9 area B or C may have come from the DuQuoin location?

10 A. I cannot say that for sure, it's possible,
11 though.

12 Q. And certainly in photograph fifteen, it indicates
13 that at least one of the pieces of material in there
14 came from the site itself?

15 A. Correct.

16 Q. Because it was the address of the site?

17 A. Yes.

18 Q. So your main area of concern with respect to
19 Mr. Pinski's responsibility would be area A, is that
20 fair to say?

21 A. Yes.

22 Q. Now, you had said that the page with the four
23 photographs in here you received from Officer Darnell,
24 can you describe how you -- you already described you

1 got them via e-mail?

2 A. Right.

3 Q. But you said it was some time after the
4 inspection on the same day?

5 A. Correct, yes.

6 Q. Can you identify from the photographs what the
7 area is these photos were taken from on the dump site?

8 A. This would have been area A.

9 Q. Okay. And what do those photographs show?

10 A. It shows that area A is obviously on fire,
11 there's dark smoke coming off of it, it shows the
12 shingles and pieces of wood as seen in the other
13 pictures. I believe, it's well, we'll say the top right
14 picture you can actually see the flames.

15 Q. All four of those photographs are from the same
16 area A?

17 A. Yes.

18 Q. There are two or three more pages attached to
19 this inspection report, can you describe what those are,
20 and how you came by those?

21 A. Yes, I received both of these documents at the
22 West Park property, where the house was being torn down
23 in DuQuoin. The first one is the written contract
24 between Rob Pinski and Hilda Cook, Hilda Cook being the

1 property owner. It explains what demolition work was to
2 be done, and it also indicates that the waste from the
3 site was to be taken to the Perry County landfill.

4 Q. And is that the first page there, or the first
5 two pages?

6 A. The contract, I'm sorry, the contract consists of
7 the first two pages.

8 Q. Then what's the final page on your inspection
9 report?

10 A. The final one is a letter from Aaron Atkins, who
11 as I understand it, is Hilda Cook's attorney, and from
12 what I was told, when Miss Cook realized that Mr. Pinski
13 was not properly disposing of the waste, he contacted
14 her attorney, who generated this letter, the same day of
15 the inspection, and she had it on hand during the
16 inspection, and it indicates that Mr. Pinski had asked
17 Ms. Cook to provide a dumpster. Mr. Atkins explained
18 that was not part of the contract, all though Mr. Pinski
19 could be free. That would be fine if he wanted to
20 provide a dumpster, but that it would have to be done at
21 his own expense.

22 Q. How did you come about getting the letter from
23 the attorney that you have attached here?

24 A. Those were provided by Ms. Cook.

1 Q. When was that?

2 A. That was during the -- if you want to call it
3 inspection, at the DuQuoin site, where the demolition
4 was being done.

5 Q. Do the photographs that you took at the two
6 locations, particularly at the dump site, accurately
7 depict what you saw at the property on that day?

8 A. Yes.

9 Q. When was this report generated?

10 A. I believe it was done mid March, I don't know the
11 exact day though, sorry.

12 Q. Within a couple weeks of the inspection, would
13 you say?

14 A. Probably within a couple weeks.

15 Q. Does Illinois EPA keep those reports in the
16 regular course of it's business?

17 A. Yes.

18 MS. RYAN: I move Exhibit 1 in evidence.

19 HEARING OFFICER WEBB: Exhibit 1 is admitted
20 into evidence.

21 MS. RYAN: I have nothing further for Miss
22 Williams.

23 (Whereupon, a discussion was held off the
24 record.)

1 HEARING OFFICER WEBB: We just had an off the
2 record discussion regarding post hearing briefs, and
3 complainant has agreed to follow briefing schedule.

4 Complainant has agreed to the following
5 briefing schedule. First we expect to receive the
6 transcript of these proceeding from the court reporter
7 by October 31, and the transcript will be posted on the
8 board's website.

9 The public comment deadline is November 14,
10 any public comment must be filed in accordance with
11 section 101.628 of the board's procedural rules.

12 Complaint's brief is due by November 13, and
13 Respondent's brief, if any, is due by November 26. I'd
14 like the reiterate for the record that Respondent Rob
15 Pinski has not attended any portion of this hearing, so
16 obviously he was not here to make a statement on his own
17 behalf.

18 Miss Ryan, would you like to make any
19 closing statement?

20 MS. RYAN: No, I would like to reserve that
21 for my brief.

22 HEARING OFFICER WEBB: Thank you, very much.
23 I will again note that there are no members of the
24 public present.

1 Based on my legal judgment and experience, I
2 find the witness testifying today to be credible. At
3 this time, I will conclude the proceedings. Thank you
4 for your participation.

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1 STATE OF ILLINOIS)

2 MARION COUNTY)

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5 I, ANGIE R. KELLY, a Notary Public in and for the
6 County of Marion, State of Illinois, and St. Louis City,
7 State of Missouri, DO HEREBY CERTIFY that appeared
8 before me on October 21, 2008 at the offices of Perry
9 County Courthouse, 1 Public Square, Pinckneyville,
10 Illinois, that a hearing by the Illinois Pollution
11 Control Board was held.

12 IN WITNESS WHEREOF, I have hereunto set my hand and
13 affixed my Notarial Seal this 27th day of October, 2008.

14

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Angie R. Kelly

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My Commission Expires September 27, 2009

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