

ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
vs.) No. AC 12-48
RUTH WHITE,) (IEPA No. 89-12-AC)
Respondent.) (Administrative
) Citation)

TRANSCRIPT FROM THE PROCEEDINGS

taken before HEARING OFFICER BRADLEY P. HALLORAN
by KARI WIEDENHAUPT, CSR, Illinois Pollution
Control Board, 100 West Randolph Street, James R.
Thompson Center, Suite 11-500, Chicago, Illinois,
on the 14th day of January 2014, A.D., at 11:10
o'clock a.m.

ILLINOIS POLLUTION CONTROL BOARD,
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
MR. BRADLEY P. HALLORAN, HEARING OFFICER

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A P P E A R A N C E S

ILLINOIS EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794
(217) 782-9817
BY: MS. MICHELLE RYAN

Appeared on behalf of the Complainant.

ALSO PRESENT: Melissa Reeks, Illinois Pollution
Control Board

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I N D E X

WITNESS EXAMINATION

KAARE JACOBSEN

By MS. RYAN

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E X H I B I T S

NUMBER MARKED FOR ID ADMITTED

Exhibit

No. 1

9

13

1 HEARING OFFICER HALLORAN: Good
2 morning. We are on the record. My name is Brad
3 Halloran. I am a hearing officer with the
4 Illinois Pollution Control Board. I am also
5 assigned to this matter entitled Illinois
6 Environmental Protection Agency, the complainant,
7 versus Ruth White, and she is the respondent.

8 It is docketed with the Board as
9 Administrative Citation 12-48. I note for the
10 record that today is January 14th, 2014. It is
11 approximately 11:10 a.m. Again, this
12 administrative citation was filed by the IEPA. It
13 alleges that during an inspection on April 12th
14 2012, it was determined that respondent violated
15 Section 21(p)(1) and 21(p)(3) of the Act as a
16 result of the April 12, 2012 inspection, and
17 subsequent to the AC, the respondent filed a
18 petition for review. That's why we are here
19 today.

20 I want to note that this matter
21 will be conducted in accordance with Section 108
22 and Section 101(f) of the Board's procedural
23 rules. Because Ruth White is not here, she is a
24 respondent, we will proceed under Section

1 101.608(b) entitled default.

2 I do want to note that the
3 respondent has failed to appear at nine of the
4 last 13 telephone status conferences, and under
5 Section 101.608(b) it states, "If the respondent
6 fails to appear at a hearing, the complainant must
7 prove its prima facie case." So the Agency will
8 move forward.

9 I also want to note that this
10 hearing was properly noticed pursuant to Section
11 108.300. Here respondent was put on notice by my
12 order issued December 3rd, 2013. I guess without
13 further ado, and I do want to welcome and
14 introduce our newest intern Melissa Reeks. She
15 just started here this morning. So welcome.

16 MS. REEKS: Yes. Thank you very
17 much.

18 HEARING OFFICER HALLORAN: Thank
19 you. Ms. Ryan, do you want to introduce yourself
20 and your client?

21 MS. RYAN: Yes. My name is Michelle
22 Ryan, Special Assistant Attorney General for the
23 Illinois EPA, and I have my formal appearance and
24 then a copy for you as well.

1 HEARING OFFICER HALLORAN: Thank
2 you.

3 MS. RYAN: And I have with me Kaare
4 Jacobsen also with the Illinois EPA. He will
5 spell his name after you swear him in.

6 (Whereupon, the witness was duly
7 sworn.)

8 KAARE JACOBSEN,
9 having been first duly sworn, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MS. RYAN:

13 Q. Can you state your name and spell
14 your name for the court reporter, please?

15 A. Kaare Jacobsen; K-A-A-R-E,
16 J-A-C-O-B-S-E-N.

17 Q. What's your job?

18 A. I am an Environmental Protection
19 Specialist III.

20 Q. And who do you work for?

21 A. The Illinois EPA.

22 Q. How many years have you worked for
23 Illinois EPA?

24 A. Thirteen and a half years.

1 **Q. What are your duties as an**
2 **Environmental Protection Specialist?**

3 A. Mostly solid waste facilities,
4 landfills, compost facilities and general
5 complaints for the public.

6 **Q. What do you do with respect to those**
7 **facilities?**

8 A. Regulate these facilities in
9 accordance to the permits that are issued by the
10 Illinois EPA permit section and stuff -- I mean,
11 regulations from the Act and Section 830.

12 **Q. So you conduct field inspections**
13 **with respect to these facilities?**

14 A. Yes.

15 **Q. And how many inspections have you**
16 **done in the 13 and a half years you have been with**
17 **EPA?**

18 A. On an average of 100 a year.

19 **Q. What's your educational background?**

20 A. Bachelor of science in plant and
21 soil science from Southern Illinois.

22 **Q. Do you have any other training**
23 **besides your bachelor's degree?**

24 A. Yes, criminal environmental

1 enforcement for regulators, advanced environmental
2 crimes training, air monitoring for emergency
3 response, sampling for hazardous materials,
4 environmental remediation technologies, USEPA
5 basic inspector course, incident command systems
6 for single resources initial action incidents,
7 mosquito control workshops, asbestos standards,
8 detection evaluation suppression of waste fires,
9 and landscape waste composting seminars.

10 **Q. Are you familiar with the facility**
11 **involved in this citation commonly known to EPA as**
12 **the Freeport White property?**

13 A. Yes.

14 **Q. Where is that property located?**

15 A. That property is located south of 75
16 on Charles Avenue.

17 **Q. And I think our citation indicates**
18 **Charles Street?**

19 A. Yes.

20 **Q. But you have determined that Charles**
21 **Avenue is the correct --**

22 A. Charles Avenue is -- yes, correct.

23 **Q. Who owns that property?**

24 A. Ruth White.

1 **Q. How many inspections have you**
2 **conducted at that property?**

3 A. Ten inspections.

4 (Whereupon, Exhibit No. 1 was
5 marked for identification.)

6 BY MS. RYAN:

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

10 A. Yes, I do.

11 **Q. What is that?**

12 A. It's the report that I generated
13 back in February of 2012.

14 **Q. Can you give a specific inspection**
15 **date?**

16 A. The inspection date was
17 February 22nd, 2012.

18 **Q. Can you page through that document**
19 **for me? Is that a fair, accurate and complete**
20 **copy of your February 22nd, 2012, report?**

21 A. Yes, it is.

22 **Q. Can you describe the property**
23 **generally?**

24 A. The property is located in the

1 wooded area. It's a pretty much vacant lot on the
2 northeast side of Freeport. The area is more
3 likely prone to flooding, and it's on the
4 outskirts of the City of Freeport.

5 **Q. Are there any buildings on that**
6 **property?**

7 A. No.

8 **Q. Who took the photographs attached to**
9 **your report?**

10 A. I did.

11 **Q. Can you start with Exposure No. 1**
12 **and indicate what those photographs show?**

13 A. Photograph 1 shows a row of tires in
14 the foreground, and in the background, a pile of
15 building debris, and off to the right you can see
16 a smoking 55-gallon drum that was burning some
17 debris in it.

18 **Q. Did you identify the material that**
19 **was burning in the drum?**

20 A. Yes, it was just wood and some
21 municipal waste.

22 **Q. Would you describe that as similar**
23 **to the material that's indicated in the pile in**
24 **the center of that photograph?**

1 A. Yes.

2 Q. **And was there any water in the tires**
3 **pictured in Photograph No. 1?**

4 A. Yes.

5 Q. **Photograph No. 2?**

6 A. Photograph 2 -- 2 is a continuance
7 from Photograph 1. It's got -- there is tires in
8 the foreground. In the background you can see,
9 again, the 55-gallon drum that's smoking. You see
10 a garbage pail, a white garbage pail and a chair,
11 and a plastic chair, and in the background you see
12 a tarp.

13 Q. **Just continue with the photographs.**

14 A. Okay. Again, I took another picture
15 of the tires on the west side of the property, all
16 uncovered, and then you look on the Photograph 4
17 is a pile of burnt remains from -- either from the
18 burn barrel or stuff that was burned there on
19 spot.

20 Photograph 5 shows that -- a
21 mattress with carpeting and a blue tarp and some
22 other just burnt remains. On Photo 6 shows a
23 cooler near the fallen tree there, some wall
24 board, two toilets that you can see on the other

1 side of the tree.

2 Photograph 7, this shows some
3 burnt remains of building debris, probably some
4 tin, some paper, and I think that structure is
5 part of a toilet right there.

6 Photograph 8 shows the --
7 another pile of the building debris with the
8 carpeting and the mattress and the burn barrel.

9 **Q. Is that the same carpeting and**
10 **mattress from Photograph 5?**

11 A. Yes.

12 **Q. Just from a different angle?**

13 A. Yes. Photograph 9 shows charred
14 remains of recycled metal in the waste basket and
15 then Exposure 10 shows that there is a gas can
16 that is rusted out and some other miscellaneous
17 metals. And Photograph 11 shows discarded glass
18 bottles in the wooded area.

19 **Q. Do these photographs accurately**
20 **depict what you saw on the property on**
21 **February 22nd, 2012?**

22 A. Yes.

23 **Q. When was this report generated?**

24 A. This report was generated

1 February 22nd -- after February 22nd, 2012.

2 **Q. Do you know approximately when?**

3 A. I think the date of the report was
4 around April, the beginning of April.

5 **Q. Does Illinois EPA keep these reports**
6 **in the regular course of its business?**

7 A. Yes.

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

11 A. Yes.

12 MS. RYAN: At this time I would move
13 Exhibit 1 into evidence.

14 HEARING OFFICER HALLORAN: Seeing no
15 objection, so moved.

16 (Whereupon, Exhibit No. 1 was
17 admitted into evidence.)

18 MS. RYAN: And that's all we have.

19 HEARING OFFICER HALLORAN: All
20 right. Thank you. You know, I believe I misspoke
21 in my intro. I think I said the inspection was
22 April 12th, 2012.

23 MS. RYAN: I'm sorry. I misheard
24 that.

1 THE WITNESS: That was the date of
2 the report.

3 HEARING OFFICER HALLORAN: Okay.
4 But the inspection was February 22nd?

5 THE WITNESS: Yeah.

6 HEARING OFFICER HALLORAN: All
7 right. The Agency has provided the prima facie
8 case. Ruth White, the respondent, is not here.
9 So basically the Agency has no rebuttal, and at
10 this point, we have discussed the briefing
11 schedule prior to the opening of the hearing.

12 We have decided that
13 complainant's brief is due February 4, 2014.
14 Respondent's brief is due to be filed
15 February 25th, 2014, and then complainant's reply,
16 if any, is due on or before March 3, 2014.

17 I will take the appearance filed
18 by Ms. Ryan, I will give it to the clerk, and it
19 will be filed. And no further questions. Have a
20 safe trip home and thank you.

21 (END OF PROCEEDINGS.)

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January 14, 2014

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I, KARI WIEDENHAUPT, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date, and at the time and place set out on the title page hereof and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

I have hereunder subscribed my hand on the _____ day of _____ 2014.



KARI WIEDENHAUPT, CSR



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