

# ORIGINAL

## ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

VS.

) No. AC 13-60

JAMES HARRIS,

Respondent.

TRANSCRIPT OF PROCEEDINGS had at the  
hearing of the above-entitled cause, taken before  
Paula A. Morsch, C.S.R. License No. 84-002965, a  
Certified Shorthand Reporter in the State of  
Illinois, on the 27th day of August, 2014, at the  
hour of 10:00 a.m., at 55 W. Tompkins Street, in the  
City of Galesburg, County of Knox, State of Illinois.

BEFORE HEARING OFFICER CAROL WEBB.

1 PRESENT:

2 MS. CAROL WEBB  
3 Illinois Pollution Control Board  
4 1021 N. Grand Ave E.  
5 Springfield, IL 62794-9274  
6 217.524.8509  
7 carol.webb@illinois.gov

8 MS. MICHELLE RYAN, ESQ.  
9 Illinois EPA  
10 2021 N. Grand Avenue East  
11 Springfield, Illinois 62794  
12 217.782.5544

13 for Complainant IEPA;

14 MARK V. KELLY, ESQ.  
15 Attorney at Law  
16 P.O. Box 5  
17 Alpha, Illinois 61413

18 for Respondent James Harris.  
19  
20  
21  
22  
23  
24

1 COMPLAINANT WITNESS:

2 GENE FIGGE

3 Direct By Ms. Ryan ..... 6

4 Cross By Mr. Kelly ..... 22

5 Redirect By Ms. Ryan .... 46

6

7 RESPONDENT WITNESSES:

8 JAMES HARRIS

9 Direct By Mr. Kelly ..... 49

10 Cross By Ms. Ryan ..... 67

11 Redirect By Mr. Kelly ... 70

12

13 GENE FIGGE

14 Direct By Mr. Kelly ..... 73

15 Cross By Ms. Ryan ..... 75

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1 HEARING OFFICER WEBB: We'll go ahead  
2 and begin. Good morning. My name is Carol Webb.  
3 This is the hearing for AC 13-60, IEPA versus James  
4 Harris. It is August 27th and we are beginning at  
5 10 o'clock a.m. There are no members of the public  
6 present.

7 In this case the Agency alleges that  
8 Respondent violated Sections 21 P-1, P-3, P-4, and  
9 P-7 of the Environmental Protection Act at a site  
10 located in Knoxville, Knox County. The Pollution  
11 Control Board members will make the final decision  
12 in this case. My purpose is to conduct the hearing  
13 in a neutral and orderly manner so that we have a  
14 clear record of the proceedings. This hearing was  
15 noticed pursuant to the Act and the Board's rules  
16 and will be conducted pursuant to Sections 101.600  
17 through 101.632 of the Board's procedural rules.

18 At this time I will ask the parties to  
19 please make their appearances on the record.

20 MS. RYAN: Michelle Ryan, Special  
21 Assistant Attorney General for the Illinois  
22 Environmental Protection Agency.

23 MR. KELLY: Mark Kelly, attorney for  
24 James Harris.

1 HEARING OFFICER WEBB: Are there any  
2 preliminary matters anyone would like to discuss on  
3 the record?

4 MS. RYAN: No.

5 MR. KELLY: No.

6 HEARING OFFICER WEBB: All right.  
7 Would the Agency like to make an opening statement?

8 MS. RYAN: We believe the evidence  
9 today will show that on May 17th, 2013, open dumping  
10 resulting in litter, open burning, deposition of  
11 waste in standing or flowing waters and deposition  
12 of construction or demolition debris occurred at the  
13 Harris property at the end of Market Street in  
14 Knoxville and that there are no defenses to these  
15 violations.

16 HEARING OFFICER WEBB: Mr. Kelly,  
17 would you like to make an opening statement?

18 MR. KELLY: Thank you. Mr. Harris'  
19 defenses are that he was compelled to use his  
20 property the way he did by duress by circumstances  
21 beyond his control, that the violations that are  
22 alleged won't be proven by evidence, that the board  
23 can consider that the evidence that was obtained was  
24 collected in violation of his constitutional rights

1 and should be excluded.

2 HEARING OFFICER WEBB: Okay. The  
3 Agency may call its first witness.

4 MS. RYAN: I call Gene Figge.

5 HEARING OFFICER WEBB: Mr. Figge,  
6 would you please come up here?

7  
8 GENE FIGGE  
9 called by the Agency,  
10 being first duly sworn,  
11 was examined and testified  
12 as follows:  
13

14 DIRECT EXAMINATION

15 BY MS. RYAN:

16 Q Can you state your name and spell it for  
17 the court reporter, please?

18 A Gene Figge, G-E-N-E, last name F-I-G-G-E.

19 Q What is your job?

20 A I'm an environmental protection specialist  
21 with the Illinois Environmental Protection Agency in  
22 the Field Operations Section, Bureau of Land, Peoria  
23 Regional Office.

24 Q And how long have you held that job?

1           A     Twenty-four years.

2           **Q     What are your duties as an environmental**  
3 **protection specialist?**

4           A     My duties include field inspections which  
5 result from investigation of complaints, scheduled  
6 inspections, and inspections at permitted and  
7 unpermitted facilities.

8           **Q     How many inspections do you think you've**  
9 **conducted in your 24 years approximately?**

10          A     In excess of 2,800.

11          **Q     What's your educational background?**

12          A     I have a Bachelor of Arts degree in  
13 biology from Monmouth College. I graduated in 1999.

14          **Q     Do you have any additional training**  
15 **besides your college degree?**

16          A     Yes. I am 40 hour hazardous waste  
17 trained. I have been trained in groundwater  
18 monitoring and sampling. I've also been trained in  
19 multi-incremental sampling and had basic asbestos  
20 awareness training.

21          **Q     Are you familiar with the Harris property**  
22 **in Knoxville?**

23          A     Yes, I am.

24          **Q     Where is that property located?**

1           A     It is located at the end of Market Street  
2     in Knoxville.  It's a dead end at Haw Creek.

3           Q     Who owns that property?

4           A     James Harris.

5           Q     Prior to today, had you ever met  
6     Mr. Harris?

7           A     No, I have not.

8           Q     How many inspections have you conducted at  
9     the Harris property?

10          A     Four.

11          Q     I'm going to hand you what I marked for  
12     identification as Exhibit 1.  Can you tell me if you  
13     recognize that document?

14          A     Yes, I do.

15          Q     What is it?

16          A     It is my inspection report dated May 7th,  
17     2013.

18          Q     Can you page through it for me, please?

19          A     Yes.

20          Q     Is this a fair, accurate, and complete  
21     copy of your report?

22          A     Yes, it is.

23          Q     Can you describe the property generally  
24     for me?



1           A     The property, as I said, is located at the  
2     end of Market Street and if I flip to a site sketch  
3     of the property, Market Street dead ends at Haw  
4     Creek. Also to the east of the property is Knox  
5     Highway 8. It's a two lane road. There's a bridge  
6     there that crosses Haw Creek.

7           **Q     Are there any improvements on this**  
8     **property, Mr. Harris' property?**

9           A     There is a pole building on the south side  
10    of the property as you enter down a lane which goes  
11    into the property headed towards the west. The pole  
12    building sits between the creek and the fence line  
13    that runs along the north edge of the lane which  
14    enters into the property.

15          **Q     Are there any other natural features other**  
16    **than the creek that you mentioned there?**

17          A     There's a few trees and that and some  
18    backwaters of Haw Creek, but other than that, no.

19          **Q     Who took the photographs attached to your**  
20    **report?**

21          A     I did.

22          **Q     And starting with photograph number one,**  
23    **can you tell us what they show?**

24          A     Photograph number one was taken as you

1 enter the property on the lane. It's taken towards  
2 the west heading west down the lane. If you look to  
3 the south of the lane, you can see accumulation of  
4 bricks. You can also see the pole building I  
5 earlier referenced. You can also see two wire  
6 containers which hold waste material that appears to  
7 have been open burning.

8 **Q Can you describe what is on top of those**  
9 **two wire containers in that picture?**

10 A It appears to be couches or some other  
11 sorts of furniture. Because they'd been partially  
12 burnt, it was difficult to determine exactly what  
13 they originally were.

14 **Q Continuing on with photograph number two?**

15 A Photograph number two is a close-up of the  
16 burning. You can see the one container with the  
17 couch or whatever type of furniture it is in the  
18 right hand side of the photograph. There's also  
19 evidence of ashes and other metal debris that  
20 remained after the burning.

21 **Q The wire container in photograph number**  
22 **two is the same, one of the same wire containers**  
23 **visible in photograph number one?**

24 A Yes, it is.

1           **Q     Go ahead and continue through the**  
2 **photographs for me, please.**

3           A     Number three is taken continuing further  
4 west down the lane. For reference I would be  
5 approximately even with the wire containers  
6 referenced in the two previous photographs. You can  
7 see the fence line I mentioned earlier that runs  
8 along the edge of the lane. To the north of the  
9 fence there is a green field, I don't know if it's a  
10 hay field or pasture, that is off of the property.  
11 There is another wire container located there  
12 alongside the fence that appears waste has been  
13 placed in and open burnt. There are also some five  
14 gallon plastic buckets on the fence posts where they  
15 run down the line.

16           **Q     Please continue with the next photograph.**

17           A     No. 4 is moving further down the lane and  
18 taken facing south. You can see in the top left of  
19 the photographs bricks and demolition debris. You  
20 can also see white goods dead center in the  
21 photograph. It appears to be air conditioning units  
22 but it's difficult to determine, and to the left you  
23 can see the two wire containers that were referenced  
24 in the first two photographs.

1 Continuing on to photograph five, this is  
2 a close-up of the wire container that was located  
3 along the fence on the north side of the lane. In  
4 the upper left corner for reference for location you  
5 can see the green from the pasture. The wire  
6 container contains ashes and metal debris that  
7 appears to have been open burnt. If you look in the  
8 upper side of the wire container, you can see what  
9 appears to have been bed springs which had the other  
10 waste material burnt off of them.

11 **Q Can you describe those bed springs for**  
12 **people who might be looking at the photographs**  
13 **later?**

14 A They're kind of S shaped with curved wires  
15 running across the photograph from the right side to  
16 the left hand side.

17 **Q And that's in contrast to the wire**  
18 **container you referenced which has straight lines?**

19 A Correct. They're also located under some  
20 white metal objects which appear to be possibly the  
21 legs off of a table. Would you like me to proceed  
22 to six?

23 **Q Whenever you're ready.**

24 A Okay. Photograph No. 6 is taken

1 continuing down the lane. It is once again taken  
2 towards the south and that would be facing Haw  
3 Creek. If you look in the center of the photograph,  
4 you can see a fan and some casings that indicate  
5 white goods. Further up in the photograph there is  
6 general refuse scattered about on the ground and you  
7 can also see in the upper right a metal trough of  
8 some sort. I'm not sure what it is. If I had to  
9 make a guess, I'd say it's the casing off of  
10 something like a freezer and it appears some other  
11 furniture has been placed in it and it's open burnt  
12 as evidenced by the size of the metal container  
13 being rusted and charred.

14 **Q No. 7?**

15 A No. 7 is taken directly facing west down  
16 the lane which enters into the property. Dead  
17 center in the lane is what appears to be dry wall  
18 and some lumber demolition debris. Generally this  
19 is from the demolition of houses or some other  
20 structures. In the upper right hand corner of the  
21 photograph you can see another fan and small motor  
22 that appears to have come from white goods.

23 Moving on to the next photograph, No. 8,  
24 this one is taken to the south facing the creek

1 again. You can see general refuse scattered about.  
2 In the foreground there is what appears to be a sink  
3 as well as a blue tarp, and in the upper right you  
4 can see the metal casing that I referenced in  
5 photograph number seven. There's also a pallet up  
6 there in that general direction on the left hand  
7 side of the photograph. You can see various types  
8 of general refuse. There's a bucket there, some  
9 cans, some plastic material.

10 Moving on to photograph No. 9, this is  
11 once more taken towards the west facing down the  
12 lane. In the lower left-hand corner you can see a  
13 white good. It appears that it is a stove that has  
14 had the interior removed. Proceeding towards the  
15 middle of the photograph you can see processed  
16 lumber which is generally the remains of demolition  
17 of houses or some other structures, and in the upper  
18 right you can see other waste material scattered  
19 about, general refuse. It's difficult to determine  
20 the origins.

21 **Q On photograph No. 9 above the dandelions**  
22 **can you identify that large yellow item?**

23 A It's difficult to identify. I think it is  
24 a broken up plastic bucket. It's yellow plastic of

1 some type. I'm not sure exactly where it came from.

2 Moving on to photograph No. 10, this is  
3 taken towards the west and I had moved further north  
4 up the lane. I'm standing in virtually the same  
5 location I was when I took photograph No. 9 just  
6 standing a bit further to the north, and it's taken  
7 down the lane along the fence line with the pasture  
8 and you have more lumber and demolition debris. In  
9 the lower right corner there is a white plastic jug  
10 and towards the upper left-hand corner more general  
11 refuse. From a distance it's difficult to tell  
12 exactly what that is.

13 Q Okay.

14 A Moving on, photograph No. 11 is taken  
15 towards the north. This is actually a close-up of  
16 the general refuse that was too distant to see good  
17 in photograph No. 10. This is another wire  
18 container containing ash and evidence of open  
19 burning. If you look on the ground to the right of  
20 the wire container, you can see where it's blackened  
21 from open burning. If you look in the left hand  
22 side of the container, you can see a scrap of wood  
23 that is charred on one end and appears to have been  
24 left from open burning.

1           **Q     Can you identify approximately the size of**  
2 **this wire container in this photograph No. 11?**

3           A     It's approximately the same size as the  
4 ones referenced in other photographs, and that would  
5 be approximately five foot by five foot square.

6           **Q     Can you estimate the depth of the material**  
7 **inside the container in this photograph?**

8           A     The container is bent so it makes it  
9 difficult but looking at the back panel which is  
10 still straight, it appears to fill the container  
11 approximately halfway.

12          **Q     Okay. Photograph No. 12?**

13          A     Photograph No. 12 is taken towards the  
14 southwest at the end of the farm lane where it  
15 becomes more brushy in the general direction of Haw  
16 Creek. That photograph shows general refuse and  
17 litter scattered about. In the dead center of the  
18 photograph there's a green piece of plastic. To the  
19 right of there there's a wash tub with some other  
20 general refuse sticking out from it, and then  
21 scattered about through the vegetation you can see  
22 other items that it's difficult to determine their  
23 exact origins.

24                   Photograph No. 13 is taken towards the



1 east. We're not standing on the lane, we're  
2 actually slightly south of it. It's taken back from  
3 the direction from which I had walked. In the top  
4 of the photograph you can see water as evidenced by  
5 the reflection. The water is a small little  
6 backwater of Haw Creek. In the lower half of the  
7 photograph you can see general construction and  
8 demolition debris which has been deposited in the  
9 backwaters. In fact, if you look in the dead center  
10 of the photograph towards the top, you can actually  
11 see partially through the water and see some of the  
12 debris. In the lower half of the photograph you can  
13 see three pieces of glass which is mixed in with the  
14 concrete and brick and in the upper left-hand corner  
15 you can see a white piece of PVC pipe.

16 **Q In addition to the glass and the PVC pipe**  
17 **that you mentioned, what is the nature of this**  
18 **debris that you identified?**

19 **A** It's general construction demolition  
20 debris most commonly left from the demolition of a  
21 building. There's rock, concrete, brick. There's  
22 some metal reinforcing wires it appears in the  
23 center of the photograph. It looks like it runs  
24 over the top of one brick there and some smaller

1 gravel and other aggregate generally left from when  
2 buildings are demolished.

3       **Q     And the glass that you identified in the**  
4 **photograph 13, what's the approximate size of those**  
5 **pieces of glass there?**

6       A     The two on the left are approximately six  
7 inches square. The one in the lower right corner is  
8 probably a foot long and four to five inches wide.

9       **Q     And photograph 14, is that a similar**  
10 **photograph to 13?**

11       A     Yes, it is. Photograph 14 is taken facing  
12 the same direction, but the angle I took it at I  
13 changed to adequately show the backwaters of the  
14 creek where the waste material had been deposited.  
15 If you look at photograph No. 14, to the right hand  
16 side you can see other demolition waste underneath  
17 the water. In the photograph I essentially changed  
18 the angle to try and get past the reflection off of  
19 the water.

20       **Q     Okay.**

21       A     Photograph No. 15 is taken facing the  
22 south which would have been the direction of Haw  
23 Creek. In the foreground is ash and blackened  
24 material indicating open burning. Also you can see

1 brick, concrete, and other indications of demolition  
2 debris.

3 Q Is there anything in this photograph that  
4 would give an indicate to the size of the material  
5 or the size of the frame that you have in this  
6 picture?

7 A It's difficult to tell from this  
8 photograph. I was trying to look for my shadow  
9 because that sometimes gives a reference point, but  
10 I took it more as a close-up to show open burning.

11 Q Okay.

12 A Photograph No. 16 is once again facing the  
13 east, the direction from which I walked while  
14 conducting the inspection. Excuse me, I'm about to  
15 sneeze. (Short pause)

16 Photograph No. 16 is taken to the east  
17 facing the direction I walked in from while I  
18 conducted my inspection. It once again shows the  
19 metal casing or container that open burning appears  
20 to have taken place in simply from the opposing end  
21 and in a close-up view. In the container appears to  
22 be what is another piece of furniture that has been  
23 partially burnt, and if you look in the center right  
24 hand side of the photograph, outside of the

1 container there is some wood which displays charring  
2 indicating open burning and then in the upper part  
3 of the photograph you can see waste that has been  
4 discussed in previous photographs. Actually if you  
5 look in the upper left-hand corner, there is what  
6 appears to be a ventilation cover that was also in  
7 photograph No. 4.

8           **Q     The large container in photograph 16, is**  
9 **that the same as the container you referenced in**  
10 **photographs 6 and 8?**

11           A     Yes, it is. The last photograph I took  
12 during my inspection is photograph No. 17. Again it  
13 is taken facing south towards Haw Creek and it is  
14 another close-up of open burning. On the left hand  
15 side of the photograph towards the center you can  
16 see what appears to be more bed springs or I suppose  
17 those could possibly come out of a couch or other  
18 item of furniture. They're wavy shaped springs  
19 slightly rusted and blackened displaying evidence of  
20 open burning. There is also ashes and partially  
21 burnt lumber. The piece that is obviously lumber is  
22 to the right and slightly up from the springs. As  
23 far as size goes, I have a reference object in this.  
24 In the lower part of the photograph there is the

1 bottom of what appears to be a pale or bucket or  
2 some other type of container that is approximately  
3 three feet across.

4 **Q Do these photographs attached to your**  
5 **report accurately depict what you saw at the**  
6 **property on May 7th, 2013?**

7 A Yes, they do.

8 **Q When was this report generated?**

9 A I generally try and complete my inspection  
10 reports the business day after conducting my  
11 inspection.

12 **Q Does Illinois EPA keep these reports in**  
13 **the regular course of its business?**

14 A Yes, we do.

15 **Q Is it the regular course of Illinois EPA**  
16 **business to make such records at or reasonably after**  
17 **the event reflected thereof?**

18 A Yes, it is.

19 **Q At this time I move Exhibit 1 into**  
20 **evidence.**

21 HEARING OFFICER WEBB: Exhibit 1 is  
22 admitted into evidence.

23 MS. RYAN: I don't have any further  
24 questions at this point.

1 HEARING OFFICER WEBB: Okay.  
2 Mr. Kelly, would you like to cross examine?

3 MR. KELLY: Thank you.  
4

5 CROSS EXAMINATION

6 BY MR. KELLY:

7 Q Good morning, Mr. Figge.

8 A Good morning.

9 Q We've never met, correct?

10 A No.

11 Q Before you conducted this inspection, did  
12 you receive a complaint?

13 A Yes.

14 Q And when did you receive that complaint?

15 A I cannot say without looking at the  
16 complaint form.

17 Q Do you recall about how long before you  
18 went and visited the premises that you received the  
19 complaint?

20 A Generally I try and have my complaints  
21 investigated within a week of when I receive them.  
22 That may not always be the case though depending on  
23 scheduling. By agency policy, all complaints are  
24 supposed to be inspected within thirty days of their

1 receipt.

2 Q And you complied with agency policy in  
3 this case?

4 A Yes, I did.

5 Q So the complaint could have come within  
6 the week of the inspection or up to thirty days  
7 before?

8 A That's correct.

9 Q Was the complaint -- you say there was a  
10 complaint form. Was the complaint generated by  
11 telephone call, in writing, do you know?

12 A I'd have to see the form to recall how it  
13 was generated. Most of my complaints come in by  
14 phone though. There are a few that come in  
15 electronically through the agency web page though.

16 Q And do you know who made this complaint?

17 A I would have to see the complaint form.  
18 Most of my complaints come in anonymous. If I do  
19 know who made the complaint, I am not allowed to  
20 disclose that information.

21 Q By what authority does not allow you to  
22 disclose it?

23 A Agency policy.

24 Q Is that pursuant to any statute or

1 **regulation?**

2 A I do not happen to know that.

3 Q And as you sit here today, do you know who  
4 made this complaint regarding Mr. Harris?

5 A Again it's difficult for me to recall  
6 without seeing the complaint forms which are kept  
7 confidential. In this case there were two  
8 complaints, if I'm not mistaken. One was anonymous  
9 and the other one we knew who the complainant was.

10 Q Was the complainant that you believe was  
11 known a public official themselves, himself or  
12 herself?

13 A Not as I'm understanding the definition of  
14 a public official.

15 Q Were they connected with the Knox County  
16 Landfill?

17 A Okay. Yes.

18 Q Did you, after you received the complaint  
19 and conducted your inspection, did you send  
20 Mr. Harris a notice of alleged violations under  
21 31.131 of the statute?

22 A I do not send out notices. In this case  
23 the inspection that we're referring to resulted in  
24 the administrative citation that we're having the



1 hearing on today. How that particular procedure  
2 works is the agency sends out the administrative  
3 citation notice. When I receive verification  
4 through our normal channels that the notice has been  
5 received, then the agency sends out a notice of  
6 corrective actions required.

7 **Q Was there any notice sent to Mr. Harris**  
8 **that offered him the opportunity to meet with the**  
9 **IEPA and discuss the alleged violations and how to**  
10 **cure them?**

11 A In this particular case, no, because this  
12 was not a notice under Section 31.

13 **Q Why was that?**

14 A Section 31 entails formal enforcement  
15 which could be and could include referral to the  
16 Illinois Attorney General's office for formal  
17 enforcement. Prosecuting in this case it would  
18 probably be in Knox County court. In this  
19 particular case it was an administration, an  
20 administrative citation issued through the Agency's  
21 authority before the Illinois Pollution Control  
22 Board and that's why we're having a hearing with the  
23 Pollution Control Board and not sitting in court.

24 **Q Thank you. Were you informally requested**

1 to meet with Mr. Harris or myself to discuss these  
2 violations and how to cure them?

3 A Not to my knowledge.

4 Q Okay. Would you have any reason not to  
5 desire to meet with Mr. Harris to discuss these, the  
6 violations that you found and how to cure them?

7 A No, I would not.

8 Q Do you know persons in your professional  
9 activity who know Mr. Harris?

10 A As I search through my mind and  
11 recollection, I would say yes.

12 Q Who would they be?

13 A I have conducted inspections at Knox  
14 County Landfill. There are fellow inspectors in my  
15 office who have conducted inspections at Mr. Harris'  
16 property prior to me taking over my complaint duties  
17 in Knox County, and there are also other inspectors  
18 in other regions that have inspected Mr. Harris  
19 prior to when I believe the Peoria region existed.

20 Q Who is it that you know at the Knox County  
21 Landfill?

22 A I know the operator.

23 Q And that is?

24 A His name is Greg. I can't think of his

1 last name.

2 **Q Greg Ingle?**

3 A Yes, and then I'm trying to think of the  
4 other fellow's name who is Greg's boss but his name  
5 escapes me.

6 **Q Would that be Jerry Reynolds?**

7 A Yes.

8 **Q Did either of those people talk about**  
9 **Mr. Harris with you within the past year or actually**  
10 **before and perhaps before, let's just say the past**  
11 **five years?**

12 A Past five years, probably. I can't say  
13 for sure.

14 **Q Did any of them discuss anything about**  
15 **Mr. Harris that you recall in particular?**

16 A As best I can recall, I believe they  
17 denied Mr. Harris access to dump waste at the  
18 landfill on one occasion because it was after  
19 business hours. I'm trying to recall. I believe  
20 that would have been in 2011 because that was the  
21 year I conducted my first two inspections on  
22 Mr. Harris' property.

23 **Q Okay. Did they ever discuss anything**  
24 **about him being barred from use of the Knox County**

1     **Landfill?**

2             A     I believe after that incident he was.

3             Q     Okay. And then did they discuss that they  
4     **had pressed charges against him?**

5             A     I believe they did.

6             Q     So they told you the whole story about  
7     **that, correct?**

8             A     As I recall, yes.

9             Q     Okay. Did you form an impression about  
10    **Mr. Harris as a result of that?**

11            A     No.

12            Q     Did they tell you anything that he was  
13    **violent or aggressive or anything of that nature?**

14            A     As far as I recall, there was an incident  
15    with Mr. Harris and Greg when they told him he  
16    couldn't dump after hours and I believe in which  
17    Mr. Harris nearly hit Greg with his truck.

18            Q     And did they tell you then that matter  
19    **went to court?**

20            A     They told me the matter went to court.

21            Q     Did they tell you Mr. Harris was acquitted  
22    **of that charge?**

23            A     No.

24            Q     How frequently in your duties when you

1 would go and perform an inspection would you then  
2 actually meet with the land owner and discuss what  
3 the problems you see are and what needs to be done?

4 A I always try and contact the land owner.  
5 Going back twenty years, most people had land lines  
6 and such. It was easier to find their phone numbers  
7 and such. In this day and age it's very difficult  
8 to get a phone number. I've looked for Mr. Harris'  
9 number and I noted it on this inspection and, if I  
10 recall correctly, I came up with it from previous  
11 correspondence but I didn't meet with him on this  
12 particular occasion. In fact, I've never met with  
13 Mr. Harris during my initial inspections in 2011. I  
14 simply could not locate him.

15 Q What percentage of other land owners that  
16 you investigate would you say that you wind up  
17 meeting with?

18 A It's probably about 50/50. Obviously if  
19 there's a residence there, it's easy to knock on the  
20 door. They may or may not be home. If there's not  
21 a residence there, most of those land owners I never  
22 meet with because a lot I am not even sure of  
23 ownership until I depart the property and go and  
24 obtain a copy of the property deed and review it.

1 Many cases -- let's say I'm investigating an open  
2 dump as a result of a complaint and it can have an  
3 alleged property owner on it. An alleged property  
4 owner, experience has taught me, could be a renter,  
5 it could be someone purchasing the property contract  
6 for deed who does not legally own the property. So  
7 if there's not a residence on it, I am hard pressed  
8 to track them down until after I get a copy of the  
9 deed and review it. Generally in those cases I do  
10 not try and meet with these people personally. All  
11 correspondence is handled by writing one form of a  
12 notice or another. If there's a home, a residence  
13 on the property, I knock on the door. Sometimes  
14 they're home, sometimes they're not.

15 **Q So most of the time you do make some**  
16 **efforts to contact the property owner and work**  
17 **things out, right?**

18 A I would not use the term work things out.

19 **Q Discuss the matter with them, would that**  
20 **be a better way to term it?**

21 A Discuss the matter, yes. My approach is  
22 it's irrelevant who the property owner is. Either I  
23 saw violations or I did not. I can tell them what I  
24 saw, but what I saw is what I saw.

1           **Q     What's the purpose of contacting them**  
2           **then?**

3           A     So they know what's going on. I can  
4           explain things and in many cases when I try and find  
5           people, the purpose of contacting them is part of my  
6           investigation. It's not uncommon for complaints to  
7           come in with an unknown property owner. If I can  
8           speak to someone in the vicinity, it can help narrow  
9           things down as to who may or may not own the  
10          property. As my career has progressed, we have 911  
11          systems. Most places with a structure have a street  
12          address. It's easier to track down who owns the  
13          piece of property now. If there's no street  
14          address, it can be very hard to figure out who owns  
15          a piece of property without speaking to someone.

16          **Q     Would one of the purposes of you**  
17          **contacting a property owner after an inspection be**  
18          **to resolve the complaint without the imposition of**  
19          **fines?**

20          A     I do not make decisions on if fines are or  
21          are not imposed. That is a decision that's made by  
22          the chain of command in the agency. Regardless --

23          **Q     May I interrupt you and ask a question to**  
24          **process that? At what point does your inspection**

1     **report get sent up the chain of command?**

2             A     When I complete it.

3             Q     **And do you send up the chain of command**  
4     **every inspection report you do?**

5             A     Yes, I do.

6             Q     **And do those always result in the**  
7     **imposition of fines?**

8             A     No, they do not.

9             Q     **So how is it that -- what's your**  
10    **understanding of how it is that an inspection report**  
11    **you refer does not result in the imposition of**  
12    **fines?**

13            A     Those are not decisions I make.

14            Q     **Do you participate in them or play any**  
15    **role in them?**

16            A     I complete a report. I say what I saw,  
17    you know, whether it be litter, open dumping, open  
18    burning. Through that process I and others in the  
19    agency can make recommendations. Whether those  
20    recommendations are taken under advisement or not is  
21    out of my hands.

22            Q     **Okay. So a lot of times you would make**  
23    **such a recommendation after meeting with the**  
24    **property owner. Would that be correct?**



1           A     I may or may not have met with the  
2 property owner. It just depends, as I explained  
3 earlier, how the inspection went, was I able to  
4 track anyone down.

5           Q     Right. And you said that fifty percent of  
6 the time or so you do meet with them?

7           A     Yes.

8           Q     And then at other times you make efforts,  
9 you write a letter, for example, or go look and try  
10 to investigate something about who owns the  
11 property, right?

12          A     That's not exactly how that works. If I  
13 complete an inspection report citing apparent  
14 violations, notice is sent out. There are various  
15 kinds of notices that can be different from  
16 situation to situation. Regardless of if an  
17 administrative citation is issued, if something is  
18 following along the lines of a formal enforcement,  
19 referral to the attorney general, whatever the case  
20 may be as far as the legal standpoint, the apparent  
21 violations need to be resolved. Regardless of any  
22 of these other letters or notices or things, the  
23 apparent violations need to be resolved. Waste  
24 needs to be removed and properly disposed of. In

1 the case of open burning, no more open burning  
2 should be taking place.

3 Q Okay. I guess let me ask you this then.  
4 What in your mind was the reason that you didn't  
5 contact Mr. Harris?

6 A Quite honestly it was difficult to locate  
7 him. There is not a structure or residence on the  
8 property. Going back to 2011, I initially couldn't  
9 find a phone number. Like I said, I believe I found  
10 this phone number in previous correspondence dating  
11 back to 2011 and there is a certain point where, for  
12 lack of a better description, I tried and it's  
13 easier to keep track of things by using a written  
14 notice.

15 Q Okay. So did you try then calling the old  
16 number you had?

17 A Yes.

18 Q And you didn't send a letter. You just  
19 relied on the formal process?

20 A Exactly.

21 Q But you never received those -- after the  
22 formal process was initiated, you never received any  
23 inclination or any information that Mr. Harris  
24 desired to meet with you to review the property?

1           A     No.

2           Q     I have just some exhibits I want to go  
3 over with you.

4           A     Sure.

5           Q     I hand you that packet. You're going to  
6 have an inferior copy to go over than the hearing  
7 officer but I don't think these hopefully will  
8 impede you too much. This is just a packet that --  
9 I'll just refer to the whole thing as to the  
10 Respondent's first exhibit. Looking at the cover  
11 page, would you recognize that as essentially an  
12 aerial map of the property in general?

13          A     Yes.

14          Q     Okay. And then just turn to the second  
15 page. Would you recognize that as basically an  
16 aerial photograph, different orientation?

17          A     Yeah. Actually to look at it so I can get  
18 the north to the top of the page which I'm  
19 accustomed to, it makes the words upside down.

20          Q     Okay. Well, the lane that you  
21 described --

22          A     Okay. I was lost on the --

23          Q     In the photograph there's a lane.

24          A     I've got it right side up.

1           **Q     That is running along one edge?**

2           **A     Yes.**

3           **Q     And that then is you think the north?**

4           **A     Yes, that's north of the pole building.**

5           **It took me awhile to find my orientation.**

6           **Q     Sure. The pole building is visible there?**

7           **A     Yeah.**

8           **Q     And now you would admit that there's not**  
9           **just a few trees on the property, right? There's**  
10          **vegetation all over the place, right?**

11          **A     Yes.**

12          **Q     Okay. Would that kind of vegetation then**  
13          **have been basically present when you inspected the**  
14          **property in May of 2013?**

15          **A     Well, in the spring obviously there's not**  
16          **more leaves. There are fewer leaves because it's**  
17          **early in the year and trees are just starting to**  
18          **bud.**

19          **Q     And we don't know what time of year that**  
20          **photo would have been taken?**

21          **A     This one here, no. Trees look to be**  
22          **leafed out.**

23          **Q     And do you recall what the state was of**  
24          **the vegetation then in May of 2013?**

1           A     It was spring. It was just starting to  
2 leaf out.

3           Q     Some of your photographs would show that  
4 in the background, correct?

5           A     Yes.

6           Q     Well, let's look at photograph 12. Would  
7 you refer to that?

8           A     Yes.

9           Q     I notice back in the background there in  
10 the upper left across the top half, in general  
11 there's a significant degree of leafing out of trees  
12 there. Wouldn't you say that?

13          A     The botanist in me would say approximately  
14 fifty percent.

15          Q     Okay. I want to ask you about photographs  
16 13 and 14.

17          A     Yes.

18          Q     On the State's Exhibit No. 1. Those are  
19 essentially two photographs of the same thing?

20          A     Yes, just as I said in my testimony, a  
21 slightly different angle.

22          Q     Okay. And except for perhaps a piece of  
23 rock or concrete in the -- well, actually I don't  
24 know. Is there anything in paragraph -- I mean in

1 **photograph 14 in terms of debris that you cannot see**  
2 **in photograph 13?**

3 A The glass. You can see one piece of glass  
4 in the lower right hand side of photograph 14. In  
5 photograph 13 you can see four pieces of glass and  
6 it looks like a partial piece of another in the  
7 lower left.

8 Q I guess maybe I phrased that wrong, but  
9 **everything that constitutes debris is visible in 13,**  
10 **correct? There's nothing extra in 14?**

11 A Actually I believe if you look in 14, you  
12 can see more of the waste that is underneath the  
13 water in the dead center of the photograph and  
14 towards the right hand side of the photograph.

15 Q Okay. What can you see?

16 A In 14 or 13?

17 Q In 14, that you cannot see in 13.

18 A If you look dead center in 14, you can see  
19 what appears to be five pieces of concrete. If you  
20 look in the same, at the same material in the same  
21 area in photograph No. 13, only two are clearly  
22 visible. Also if you look at the right hand side of  
23 photograph No. 14, it appears three pieces of waste  
24 are visible and in 13 same area, only two.

1           MR. KELLY: Your Honor, may I  
2 approach and have him point these out to me?

3           HEARING OFFICER WEBB: Yes.

4           A     Sure. What I'm looking at here is you can  
5 see that. You can see that real clear. I think  
6 that's another piece but it's kind of murky there  
7 right on top of my finger. If you look in this one,  
8 you can clearly see this one here, you see another  
9 one here, see another one there, see another one  
10 there, and see the edge of another one there.

11          Q     So you just pointed out the ones you  
12 thought were more clear in 14?

13          A     Yeah.

14          Q     But in 13, that's the same one that you  
15 pointed out to me?

16          A     Yes.

17          Q     Isn't this one the same one you pointed  
18 out to me there?

19          A     That one is, but then if you --

20          Q     There's this little one here?

21          A     And this one here and the one in the  
22 middle though.

23          Q     Okay. There's that one right there?

24          A     Yeah.

1           Q     And then on the side you have one, two,  
2     and where's the third?

3           A     You can't really see it in that one but if  
4     you look right there in 14, see it at the edge?

5           Q     I'm looking at 13. Isn't that one  
6     referred to?

7           A     I can't make it out there.

8           Q     And you can make out something down here?

9           A     Yeah. I was trying to beat the glare off  
10    the water is what it came down to.

11          Q     Okay. But besides those items that  
12    perhaps are more clear, clearly seen in photograph  
13    14 than they are in photograph 13, there's no  
14    other --

15          A     Fourteen excludes some of the glass.

16          Q     And do those photographs constitute all  
17    the evidence that you have about a violation of  
18    water pollution?

19          A     Yes.

20          Q     Did you -- and you said you haven't  
21    obviously met Mr. Harris until today or seen him  
22    until today, so you didn't get his permission to  
23    enter onto his premises, correct?

24          A     No, I did not.



1           **Q     And what's the reason you didn't get his**  
2 **permission to enter on to the premises?**

3           **A     As per Section 4-D of the Environmental**  
4 **Protection Act, I have the right to enter on**  
5 **property at any reasonable time in order to conduct**  
6 **inspections to determine compliance with the**  
7 **Environmental Protection Act and/or Title 35**  
8 **Illinois Administrative Code.**

9           **Q     And what's your understanding of the**  
10 **phrase in 4-D? I believe it's in accordance with**  
11 **constitutional limitations.**

12          **A     It's always worked out in application over**  
13 **the course of my career if an individual is present**  
14 **on property, they may deny me access and require me**  
15 **to go get a search warrant. That has happened a**  
16 **couple times in my career.**

17          **Q     So your interpretation of 4-D is that if**  
18 **there's no one there to object, you're allowed to**  
19 **enter onto premises and collect evidence that you**  
20 **later use against them in administrative**  
21 **proceedings?**

22          **A     Yes.**

23          **Q     And you had inspected these premises**  
24 **before?**

1 A Yes.

2 Q And you had knowledge that in fact  
3 violations were charged and violations and fines  
4 were paid on the premises before?

5 A Yes.

6 Q And would you have anticipated you would  
7 have been given permission to enter onto these  
8 premises had you asked?

9 A I didn't even consider that.

10 Q Well, if you would consider it, you would  
11 admit that it's unlikely someone would give you  
12 permission to enter onto their premises again,  
13 wouldn't you?

14 A Honestly in the course of my career, I've  
15 had to get a search warrant one time.

16 Q Okay. And then you said that was when  
17 someone was present on the premises?

18 A Yes.

19 Q And do you typically request permission in  
20 advance?

21 A No.

22 Q Is the reason that you don't request  
23 permission in advance at least in part because you  
24 know people will object?

1           A     No.

2           Q     So you don't believe anyone would object  
3     to your entering onto their premises to search for  
4     EPA violations?

5           A     Oh, they might object. Like I said, I've  
6     had it happen one time in the course of my career  
7     where I had to get a search warrant.

8           Q     Are you aware of any authority that  
9     ratifies your understanding of that interpretation  
10    of Section 4-D?

11          A     It has been agency policy over my entire  
12    career.

13          Q     Is that policy then something that you  
14    were informed of just as a matter of instruction or  
15    is it part of any written procedures you follow or  
16    regulations you follow?

17          A     I cannot say for sure if it's a part of a  
18    written procedure. I do not recall ever reading  
19    written procedure on it.

20          Q     So at some point in your training likely  
21    you were told by whoever was training you, this is  
22    the rule that we follow?

23          A     Yeah.

24          Q     In your report you cited the, again

1 referring to the State's Exhibit No. 1, you refer to  
2 the buckets visible in photograph No. 3 as having  
3 been melted?

4 A No.

5 MS. RYAN: Objection.

6 A Not in this inspection report.

7 Q Oh, is that in prior -- the one after  
8 that, okay. Now, so the buckets in photograph three  
9 are unmelted?

10 A Correct.

11 Q Do you know who owns the adjacent property  
12 to the north?

13 A No, I don't.

14 Q So you've never made any contact with that  
15 person?

16 A Not to my knowledge. I could have but I  
17 don't know who owns it so --

18 Q In the photographs that you took, were  
19 they all inside actually taking place on the Harris  
20 property?

21 A Assuming the fence is the property line,  
22 yes.

23 Q And would you then assume that or would  
24 you concede that photographs 13 and 14 at least were

1 taken from a location that you couldn't have seen  
2 except for being on the premises or on the grounds  
3 of the Harris property?

4 A Yes.

5 Q So you couldn't have seen those from the  
6 adjacent field?

7 A No. Well, you maybe could. Maybe you  
8 could have. I can't see what's out of the  
9 photograph. It depends on vegetation and such.  
10 They were taken on the Harris property.

11 Q Okay. Do you know whether the creek bed  
12 is -- how far a slope down to it there is from the  
13 lane, for example?

14 A Photographs 13 and 14 are taken as a  
15 backwater. It's not actually an oxbow. It's  
16 something similar to an oxbow.

17 Q Tell me more about a backwater. Is that  
18 an occasional wet spot or part of the creek bed?

19 A This is not an actual oxbow.

20 Q What is an oxbow?

21 A That's what I was going to say.

22 Q I'm sorry?

23 A Similar to an oxbow is how I would  
24 describe it. An oxbow occurs where a stream or

1 river has a bend. Over time that bend will get cut  
2 off from the main stream or river and it forms a  
3 lake. This is something along that nature.  
4 However, it's not what I would think would be  
5 formally called an oxbow because it doesn't have a  
6 bend in it.

7 **Q Is the water present here present year**  
8 **round?**

9 A I can't say if it ever or never dries up,  
10 but every time I have conducted an inspection there  
11 has been water there.

12 MR. KELLY: Those are all the  
13 questions I have. Thank you.

14 HEARING OFFICER WEBB: Ms. Ryan?

15

16 REDIRECT EXAMINATION

17 BY MS. RYAN:

18 **Q Mr. Figge, in the twenty eight hundred**  
19 **some inspections you've conducted, have all your**  
20 **inspection reports shown observation of violations?**

21 A No.

22 **Q Do you have any idea of what percentage**  
23 **might be not violations?**

24 A Oh, 50/50.

1           Q     When you took over the complaint duties in  
2     Knox County and received a complaint on Mr. Harris'  
3     property, did you review the Agency's file on that  
4     property?

5           A     Not until after my initial inspection.

6           Q     So you did review the file then after your  
7     initial inspection in 2011?

8           A     Yes.

9           Q     Do you recall how long Illinois EPA has  
10    been doing inspections at Mr. Harris' property?

11          A     Approximately thirty years.

12          Q     Was there anything in your review of the  
13    file that indicated that Mr. Harris had objected to  
14    anyone accessing his property at any point during  
15    those thirty years?

16          A     No, there was not.

17          Q     Was there anything at the property that  
18    indicated that your access was restricted?

19          A     No, there was not.

20          Q     Do you recall the nature of the complaints  
21    you received prior to the May 7th, 2013, inspection?

22          A     Similar to this one, open dumping, open  
23    burning. Pretty much the same thing.

24          Q     Do you recall anything more specific about

1 it, how the complainants knew of the problem at the  
2 site?

3 A Not without looking back at the complaint  
4 form.

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

6 HEARING OFFICER WEBB: Any follow up?

7 MR. KELLY: Nothing further.

8 HEARING OFFICER WEBB: Thank you,  
9 Mr. Figge.

10 THE WITNESS: Thank you.

11 HEARING OFFICER WEBB: Does the  
12 Agency have anything else they'd like to present?

13 MS. RYAN: We do not.

14 HEARING OFFICER WEBB: Okay, very  
15 good. Mr. Kelly, you may call your witness.

16 MR. KELLY: I'd like to have  
17 Mr. Harris' testimony, James Harris.

18 HEARING OFFICER WEBB: Mr. Harris, if  
19 you don't mind, we could have the court reporter  
20 swear in the witness.



JAMES HARRIS  
called by the Respondent,  
being first duly sworn,  
was examined and testified  
as follows:

DIRECT EXAMINATION

BY MR. KELLY:

**Q State your name for the record.**

A James D. Harris.

**Q Where do you live, Mr. Harris?**

A 184 Duffield in Galesburg, Illinois.

**Q How old are you?**

A I'm seventy years old.

**Q Are you married?**

A I'm married.

**Q For how long?**

A Forty-seven years.

**Q Do you have any children?**

A Four children.

**Q Are they adults?**

A All of them are adults.

**Q And what kinds of work do they do?**

1           A     Our oldest is a doctor in Kansas City and  
2     our youngest daughter is a lawyer minister in Kansas  
3     City and our son, he's a 23-year serviceman. He's  
4     in Rye, New York now, and we have a daughter that's  
5     with the gas company here, Ameren or whatever they  
6     call it.

7           **Q     And what's your profession?**

8           A     My profession was I would haul things for  
9     people to make, you know, a living.

10          **Q     You would have a business?**

11          A     Right, doing business as Harris Trucking.

12          **Q     And how long did you operate that?**

13          A     Done that for probably forty-seven, eight  
14     years, somewhere in that range.

15          **Q     That's been your profession your whole**  
16     **adult life essentially?**

17          A     Yes, sir.

18          **Q     Were you in the military service?**

19          A     No, I was not.

20          **Q     So you own property, the subject property**  
21     **that this complaint is about in Knoxville, Illinois?**

22          A     I do.

23          **Q     And how long have you owned that?**

24          A     I think I bought that in '75.

1           **Q     And in the conduct of your business, where**  
2 **would you normally dispose of the materials that you**  
3 **were hauling?**

4           **A     Normally I would dispose of the material**  
5 **at the Knox County Landfill.**

6           **Q     And for how long have you done that?**

7           **A     Until the incident, which it wasn't trying**  
8 **to dump a truck after hours. What it was was they**  
9 **wanted to double charge me for a load I brought in**  
10 **after I dumped it. They said you're doubled, and to**  
11 **be treated like the Dred Scott of Knox County**  
12 **Landfill and have them have the full weight of the**  
13 **law behind them and I have nobody.**

14          **Q     Let me sort of put that in some context.**

15          **A     Yes, sir.**

16          **Q     There's a packet in front of you with the**  
17 **pen on it there.**

18          **A     Oh, okay.**

19          **Q     Let's just go through that, if we could**  
20 **close it up there and we'll start with page one.**  
21 **That essentially is just an aerial view of a map of**  
22 **the Knoxville premises, correct?**

23          **A     Yes.**

24          **Q     And then it would be essentially -- is it**

1 oriented correctly so the top of the page is north  
2 more or less?

3 A Yes, sir, it is.

4 Q All right. Then going to the second page,  
5 if you rotated that so you could read the word  
6 Google.

7 A Right.

8 Q And that orients the top of the page to  
9 the north, correct?

10 A Yes.

11 Q And that looks like an aerial photograph  
12 of your premises showing the vegetation?

13 A Right.

14 Q And the pole building, for example?

15 A Uh-huh.

16 Q And with the break in the vegetation would  
17 be the creek?

18 A Right.

19 Q Let's go then to the --

20 A I have arthritis in my fingers so I'm not  
21 quick.

22 Q Okay. We'll go to the next pages. Have  
23 you had occasion to request the documentation  
24 showing the implementation of the policies of the

1     Knox County Landfill through your various counsel  
2     over the years?

3             A     Yes, we have.

4             Q     Okay. Looking at the page, the letter  
5     dated July 22nd, 2014 -- and, Michelle, I'm going to  
6     lead if that's okay with you to get through this.  
7     Does that appear to be a letter that sets forth  
8     their response to a request for the documentation of  
9     the landfill policy that the Knox County Landfill  
10    held against you, Mr. Harris?

11            A     I'm sorry, I was trying to --

12            Q     Let me ask it again.

13            A     Go ahead.

14            Q     The page before the one you're looking at  
15    is a letter dated July 22nd, 2014?

16            A     Okay.

17            Q     Does that appear to be the request to get  
18    the landfill policy documentation on the next page?

19            A     Right.

20            Q     Okay. And does the next page where on the  
21    bottom it says page 172 of your exhibit --

22            A     Right.

23            Q     -- reflect that the city council on August  
24    15th, 2007, was going to pass a resolution to

1     **"authorize the landfill operator to charge double**  
2     **the tipping fee"?**

3           A     Pardon me, sir. It would be the county  
4     board.

5           Q     Okay. The county board --

6           A     Right.

7           Q     -- was going to pass a resolution to  
8     authorize the landfill operator to charge the double  
9     tipping fee?

10          A     Okay.

11          Q     Is that correct?

12          A     That's what I'm reading here.

13          Q     And then in fact when you went to the  
14     premises then after August 15th, 2007, the landfill  
15     operator at that time tried to implement this policy  
16     on you, correct?

17          A     I can't testify with any accuracy because  
18     I'm not -- the dates aren't coming up. I don't know  
19     if it was 2007 or --

20          Q     Let's leave the date aside then and just  
21     say when were you banned from the landfill?

22          A     I was banned when Greg Ingle took a county  
23     truck and ran in front of me.

24          Q     I want to go to the date first. I want to

1     **try to establish the parameters and try to find out**  
2     **about when.**

3           A     I think it was in February on a Friday.  
4     That's about all I can remember.

5           Q     **A few years ago?**

6           A     Right.

7           Q     **In 2011? Sound about right?**

8           A     It sounds about right.

9           Q     **And was the double tipping fee imposition**  
10    **on you about a year or so before that?**

11          A     Right.

12          Q     **And so that would be after 2007 but before**  
13    **2011, right?**

14          A     Right.

15          Q     **So I just want to set that time parameter.**  
16    **Now, regarding the double tipping fee, you entered**  
17    **into the landfill and you were allowed to proceed to**  
18    **dump the load of things you had in your truck?**

19          A     No, I can't say that.

20          Q     **On the time that they imposed the double**  
21    **tipping fee?**

22          A     The time they imposed the double tipping  
23    fee, when this incident occurred, I was taken aback  
24    that I'm a taxpayer and a citizen.

1           **Q     I want to establish first what happened.**  
2           **You went and dumped your load?**

3           A     Oh, yes, yes. It was after I dumped the  
4           load that they said you're double. I said, well,  
5           why did you let me dump it and I have to pay double?  
6           And immediately he says I'll call the police. Well,  
7           the police department were there in a flash and they  
8           said you go into town, and I went to see the state's  
9           attorney and I said this isn't fair.

10          **Q     And then you tried to resolve the issue**  
11          **about this double fee?**

12          A     Right.

13          **Q     But you didn't resolve it?**

14          A     No.

15          **Q     And did you refrain from using the**  
16          **landfill for a while after that?**

17          A     I did for a while because most of my  
18          business just turned to scrap, recycling scrap  
19          metal. So I didn't need the landfill very much.

20          **Q     How would you operate the scrap metal**  
21          **recycling part of your business?**

22          A     Most of it was I picked it up at different  
23          sites and I usually would have enough to make a  
24          load. I'll give you an example. Electric motors in



1 Davenport, Iowa, sell for forty cents a pound. Here  
2 in Galesburg they sell for seventeen cents a pound.  
3 So what I'm saying if I had extra electric motors  
4 like with the fans on them, rather than take  
5 seventeen cents a pound, I would accumulate them and  
6 throw them on when I had a load.

7 **Q Okay. Then at some point you needed to**  
8 **use the Knox County Landfill?**

9 A Right.

10 **Q And what happened then?**

11 A When I got there Greg Ingles came out and  
12 said have you got enough money to pay your old fees?  
13 I said I got enough money to pay at least this load.  
14 So the green light had already gone off so I took  
15 off. I wasn't even aware he jumped in the county  
16 truck and came around in front of me and stopped  
17 abruptly, and there was nothing else I could do. So  
18 that was that, and they charged me with about three  
19 different felonies. I was acquitted of them all  
20 except they did charge me with trespassing and they  
21 found me guilty on that, but the rest I was  
22 acquitted.

23 **Q And then after that then, looking at the**  
24 **next couple documents in your packet there, there's**

1 a letter from the Knox County Landfill dated January  
2 31st, 2011?

3 A Right.

4 Q From Jerry Reynolds from the landfill?

5 A Uh-huh.

6 Q The next page is a letter dated September  
7 9th, 2011, from the States Attorney's office of Knox  
8 County barring you from the landfill?

9 A With some exceptions.

10 Q Well, barring you personally?

11 A Right, okay.

12 Q From use of the landfill. Now, you tried  
13 to resolve this issue with the State's attorney of  
14 the double tipping fee and the charges that were  
15 made to you for that?

16 A Yes, I've tried to resolve them with the  
17 State's attorney.

18 Q And were you successful?

19 A No, I wasn't successful.

20 Q If you can't use the Knox County Landfill,  
21 what do you have to do?

22 A I have to go take my loads to either  
23 Kickapoo or up here. And let me just say this.  
24 This remedy was suggested by Jerry Reynolds at a

1 meeting we had with the State's attorney because he  
2 said he'll have to go to Kickapoo or the one up  
3 here. I forget the name of it, by Coal Valley.

4 **Q Okay. So that's where you go?**

5 A Right, basically one hundred miles round  
6 trip. So the burning, and when they talk about open  
7 burning, I think we have some pictures for places  
8 right across the street from my property, directly  
9 across the street, property one and property two,  
10 and I think it will enlighten you to see these  
11 pictures.

12 **Q Mr. Harris, look at the last page, the**  
13 **last two pages of the packet here.**

14 A Right.

15 **Q And are those the photographs that you're**  
16 **referring to?**

17 A Yes, sir.

18 **Q And if I may approach him?**

19 HEARING OFFICER WEBB: Yes.

20 **Q I'm handing you the originals of those**  
21 **photographs.**

22 A Okay. Do you want me to pass them around?

23 **Q Well, I just want you to identify them**  
24 **first.**

1           A     Okay. This is right across the street  
2 from me on the road.

3           Q     Let's refer to the packet and if you could  
4 get the first photograph, get the photograph that  
5 corresponds with the top photograph on the second to  
6 last page of the packet.

7           A     Second to last you say?

8           Q     The last two pages of the packet are four  
9 photographs.

10          A     Right.

11          Q     So let's talk about the photograph --  
12 actually this is the one. Let's talk about this  
13 photograph here.

14          A     Okay. That's all the same.

15          Q     So we're referring to the original  
16 photograph that is copied on the top of the second  
17 to last page of the exhibit, correct?

18          A     Yes, sir.

19          Q     What does that show?

20          A     It shows debris, fairly large amount.

21          Q     Where?

22          A     In a field across the road from my place.

23          Q     Referring to the photograph or to the map  
24 on the cover of the packet, where would this

1 **property be located in reference to this map?**

2 A Okay. The property would be located going  
3 back towards Knoxville.

4 **Q Okay. So to the north of this map?**

5 A To the north.

6 **Q Would this property be -- would you pass**  
7 **it on the way to Market Street?**

8 A Every time.

9 **Q Is it off of Market Street?**

10 A It's on Market Street every time I've been  
11 there over twenty years.

12 **Q So that photograph was something that was**  
13 **on Market Street?**

14 A Right.

15 **Q Then what does it show?**

16 A It shows debris. It shows building  
17 material and it's in a large pile. It is together  
18 but it's all a big large pile.

19 **Q And when did you take that photo?**

20 A I took these photos July the 16th.

21 **Q And had that, the conditions that are**  
22 **shown in that photo, had they existed prior to you**  
23 **taking that photo?**

24 A For many years. This is a dump site and

1 it's been active for at least twenty years.

2 Q And is that the same location as shown on  
3 the photo below it on the exhibit?

4 A Yes, sir, it is.

5 Q Are those two, looking to the last page of  
6 the exhibit, are those photographs of the same  
7 premises or different?

8 A Same premise.

9 Q So they're the four photographs of the  
10 same premises north of Market Street from your  
11 property in Knoxville?

12 A Right.

13 Q And those conditions are visible from  
14 Market Street as you drive by?

15 A They definitely are.

16 Q All right. If I may be excused for just a  
17 second to plug in my computer, it seems to need me  
18 to put a power supply to it.

19 HEARING OFFICER WEBB: Sure. Go off  
20 the record for a minute.

21

22 (Whereupon an off the record  
23 discussion was held.)

24

1 HEARING OFFICER WEBB: Back on the  
2 record. Mr. Kelly, would you like to finish up your  
3 questioning?

4 MR. KELLY: Thank you.

5 Q So, Mr. Harris, what's the reason, what  
6 use did you make of your Knoxville property after  
7 you were barred from the Knox County Landfill?

8 A Well, what I'm doing with my Knoxville  
9 property was I would save things that I can recycle  
10 and sell. I noticed every time they mentioned  
11 burning, it was open burning, so I think anybody  
12 burning in a burning barrel or anything is still  
13 open burning. I had these in containers that I was  
14 trying to control, and then I would -- when you go  
15 up to Coal Valley, they just charge you by the  
16 yardage so I could have a heavy load going to Coal  
17 Valley and my price would be the same. So I had to  
18 reduce the volume because if the volume was greater,  
19 that's the way they would charge you. Kickapoo over  
20 here charges by ton.

21 Q Okay. So what was the cost impact on you  
22 from not being able to use the Knox County Landfill?

23 A Okay. To give you an example, a truck  
24 that gets, say, five miles a gallon and if you have

1 a one hundred mile round trip, that's pretty easy to  
2 figure out. Plus I don't know what the tipping fees  
3 out at the landfill are, but with the people running  
4 it that were less than hospitable, I knew I couldn't  
5 go there. So it would be I would figure at least  
6 one hundred dollars time and gas just to go to  
7 Kickapoo or Coal Valley and plus the cost of  
8 dumping. Now, Kickapoo I think is fifty-seven  
9 dollars a ton. The other one was one hundred twelve  
10 dollars straight. So it would be about two hundred  
11 twenty five, two hundred thirty dollars.

12 **Q Could you make a living paying those fees?**

13 A No, because I had to let people, very good  
14 customers go because I told them I don't have a  
15 place to take it. And I'm not saying this bragging  
16 but -- well, I'll just say this, that this old  
17 raggedy piece of property out there, I have to pay  
18 nine hundred dollars a year taxes on it because of  
19 this Knox County vendetta.

20 **Q Did you say that you stored items that**  
21 **you're going to recycle on the premises?**

22 A Recycle, or I have a few rentals so once  
23 in awhile there would be something in the building  
24 material that I would re-use and that would be a



1 place where I might put it off to take it to the  
2 place I was going to use it later.

3 **Q Have you ever had anything stolen from the**  
4 **property?**

5 A Yes, I have.

6 **Q And taken any action in relation to that?**

7 A Well, yes, I have. I've had numerous  
8 thefts. And the one thing about a theft, I'm the  
9 last one to get reimbursed because the courts get  
10 their fines and stuff first and then in so many  
11 cases, because the thieves are easy to catch,  
12 they're usually pretty stupid, but it takes two  
13 years to get your money.

14 **Q What have you done though on your property**  
15 **regarding theft?**

16 A Well, what I've done, I've tried to put  
17 things around where they're not just all centrally  
18 located and someone could just back in and swoop in  
19 and grab up what they wanted to take and it would  
20 all be right there for them. So if they don't like  
21 to traipse through the weeds, it discourages them.

22 **Q Some of the items in the photographs, the**  
23 **17 photographs that Mr. Figge discussed, were some**  
24 **of those items items you would recycle?**

1           A     Yes, they are.

2           Q     Now, you have had a 2011 administrative  
3     complaint filed against you, correct?

4           A     Yes, sir.

5           Q     And you conceded those violations and paid  
6     those fines?

7           A     That was right after the landfill and it  
8     was because of dumping on the ground and that's what  
9     I felt the violation was about, dumping on the  
10    ground. That's why I went through these containers.

11          Q     Were you under the same pressure from the  
12    landfill barring as you are now?

13          A     Yeah. I hear things from the landfill.  
14    There are people that feed me a little information.  
15    I can't say how truthful it is, but you'd wonder why  
16    would somebody tell you about them out there  
17    laughing about what was going to happen along with  
18    an EPA representative. This got back to me. Now I  
19    can't testify it's truthful.

20          Q     But would it be fair to say, and correct  
21    me if I'm wrong and object, that you feel the Knox  
22    County barring you from the landfill is the cause of  
23    the EPA violations you're being charged with now?

24          A     Definitely.

1 MR. KELLY: Those are all the  
2 questions I have.

3 HEARING OFFICER WEBB: Ms. Ryan?  
4

5 CROSS EXAMINATION

6 BY MS. RYAN:

7 Q Mr. Harris, are you still operating Harris  
8 Trucking?

9 A On a very slow schedule.

10 Q Were you surprised when you were charged  
11 that double tipping fee at Knox County?

12 A Yes, I was.

13 Q Why is that?

14 A Because there was no -- it wasn't  
15 legitimate. They said you have to be covered and I  
16 was covered. The guy said my end gate wasn't good  
17 enough.

18 Q What was your truck covered with?

19 A It was covered with a canvas, a tarp.

20 Q A tarp. If you can look at the documents  
21 that your attorney gave you there and turn back to  
22 the page -- well, hang on. Let me see if I can  
23 count them for you. I think it's page five. It's  
24 the one that says Knox County Landfill up at the

1 top. It's from Jerry Reynolds, that one.

2 A No.

3 Q That's the one I'm looking at so try and  
4 find this page, (Indicating). I have an extra page  
5 in mine so mine may not be in the exact same order.  
6 It's a duplicate page.

7 A Okay.

8 Q In the middle of that page it says  
9 non-secured load charge and your failure to follow  
10 instructions at the landfill. What does that phrase  
11 refer to, failure to follow instructions at the  
12 landfill?

13 A This is an inappropriate way to answer  
14 questions but how do you defend yourself against a  
15 lie when someone says you didn't follow  
16 instructions? But Greg Ingles is the one I have to  
17 answer to and in court when the trial was going on,  
18 he said in court that I am the law at the Knox  
19 County Landfill.

20 Q Okay. But do you know what he meant by  
21 failure to follow instructions? What instructions  
22 was he talking about?

23 A Building a case. Jerry Reynolds hides in  
24 the shadows.

1           Q     What I'm trying to get at is do you know  
2     what instruction they argued you failed to follow?

3           A     No.

4           Q     You don't know, okay. And then if you  
5     look at the next page I think it is, that's the  
6     letter from Eric Gibson.

7           A     Uh-huh.

8           Q     It says that they want outstanding  
9     invoices and restitution for damage to the truck.  
10    What does that refer to, damage to the truck?

11          A     The truck was the one that Greg Ingles  
12    used and evidently it sustained over two thousand  
13    dollars worth of damage that the court said I wasn't  
14    liable for.

15          Q     Do you know what the nature of that damage  
16    was?

17          A     Yeah, when he got in front of me and I hit  
18    him.

19          Q     Did you ever pay the amounts that were  
20    indicated on this September 9, 2011, letter?

21          A     The ninety-three dollars?

22          Q     Either one of those.

23          A     I paid half of it.

24          Q     You paid half of the ninety three dollars?

1           A     Right.

2                     MS. RYAN: That's all I have for  
3     Mr. Harris.

4                     HEARING OFFICER WEBB: Any follow-up?

6                     REDIRECT EXAMINATION

7     BY MR. KELLY:

8           Q     The half that you paid was the correct  
9     charge?

10          A     Yes, sir.

11          Q     For the dumping that you did at that time?

12          A     Yes, sir.

13          Q     So you paid half because they had doubled  
14     it improperly in your view?

15          A     That's right.

16          Q     And the damage to the truck charge they  
17     wanted that they referred to is as a result of the  
18     collision that you were criminally charged about?

19          A     Right.

20          Q     And were you acquitted of that charge?

21          A     That's right.

22          Q     So you feel that you proved that Greg  
23     Ingle caused the damage?

24          A     It was Greg Ingle's wreck, not mine.

1 MR. KELLY: Those are all the  
2 questions I have.

3 MS. RYAN: Are you going to offer  
4 this as evidence?

5 MR. KELLY: Yes.

6 MS. RYAN: I would object to the last  
7 photographs at the end. They appear to have been,  
8 from what I can understand from the testimony, they  
9 were taken in 2014 which is after the incident that  
10 the citation is referring to and, therefore, they're  
11 not relevant and also they're not of the subject  
12 property and, therefore, they're not relevant.

13 MR. KELLY: My response is that he  
14 said it's the same conditions that existed for  
15 thirty years.

16 MR. HARRIS: Twenty years.

17 MR. KELLY: Twenty years.

18 MS. RYAN: I have no problem with his  
19 testimony. I have a problem with the photographs.

20 HEARING OFFICER WEBB: Do you have  
21 any problem with anything other than the  
22 photographs, the rest of the packet?

23 MS. RYAN: No. I have an extra page  
24 on the back. I don't think everybody has this on

1 the back. I think that's an extra Google map.  
2 Other than that, the last two pages I think are just  
3 the photographs.

4 HEARING OFFICER WEBB: Well, I do  
5 agree with Ms. Ryan. It is not relevant because it  
6 is not the subject of what this citation is about.  
7 If you'd like to make an offer of proof, I can take  
8 it as an offer of proof.

9 MR. KELLY: Thank you. I would offer  
10 it to prove that the properties on the way to the  
11 subject property off Market Street in Knoxville,  
12 Illinois, are accurately depicted in the photographs  
13 objected to.

14 HEARING OFFICER WEBB: Okay. We'll  
15 call the inspection report the Agency Exhibit 1 and  
16 this packet is Respondent's Exhibit 1. I'm going to  
17 physically separate them at the board so we'll have  
18 the Respondent's Exhibit 1 is admitted and then I  
19 will offer as proof the photos. I will file those  
20 with the clerk's office separately. Ms. Ryan, would  
21 you like to -- oh, I'm sorry. Are you finished?

22 MR. KELLY: I'm finished with  
23 Mr. Harris. I would like to re-call Mr. Figge just  
24 for one or two questions.



1 HEARING OFFICER WEBB: Okay. You  
2 were done with him?

3 MS. RYAN: Yes.

4 HEARING OFFICER WEBB: Okay.  
5 Mr. Figge, you're still under oath.

6  
7 GENE FIGGE  
8 re-called by the Respondent,  
9 being first duly sworn,  
10 was examined and testified  
11 as follows:

12  
13 DIRECT EXAMINATION

14 BY MR. KELLY:

15 Q I apologize for forgetting to ask you this  
16 before. There was a past complaint based on  
17 inspections you performed in 2011 regarding  
18 Mr. Harris and the Knoxville property, correct?

19 A Yes.

20 Q 1127 AC?

21 A I'd have to look at the file to tell you  
22 the number.

23 Q And those premises were, well, they were  
24 cited and violations were found and fines paid.

1 **There was never a point thereafter when you**  
2 **inspected the property and found them basically**  
3 **clean and free of debris, was there?**

4 A There was a follow-up inspection after the  
5 resolution of the administration citation in 2011.  
6 During that violation -- sorry; during that  
7 inspection afterwards, an in general compliance  
8 letter was sent. That's a notice the agency sends  
9 saying essentially when I did my inspection no  
10 apparent violations were observed.

11 Q And about when would that have been  
12 generated?

13 A It was 2011. Without looking at the  
14 report, I can't tell you the exact date.

15 Q Would that inspection have generated a  
16 report with photographs similar to Administrative  
17 Exhibit No. 1?

18 A Yes, it would have.

19 Q And would that report have been ever  
20 supplied to Mr. Harris?

21 A I believe a copy of the report would have  
22 been attached to the letter.

23 Q What records would exist in your agency  
24 that sort of document that that in general

1 **compliance letter was sent?**

2 A Essentially the same thing Mr. Harris  
3 would receive a copy thereof.

4 Q Do you have a file in your office that you  
5 could refer to to show when that would have been  
6 sent and what was sent?

7 A Yes. I don't have it with me, but yes.

8 MR. KELLY: Those are all the  
9 questions I have.

10 MS. RYAN: I do have one cross  
11 question but I do have follow up direct questions as  
12 well, if I can just continue with those.

13 HEARING OFFICER WEBB: Yes.  
14

15 CROSS EXAMINATION

16 BY MS. RYAN:

17 Q You returned to section compliance in 2011  
18 so the violations that you cited in 2013 then were  
19 not continuing violations from the previous  
20 citation, is that correct?

21 A That's correct.

22 Q So these were new observations that you  
23 had made in 2013 that are the subject of this  
24 citation today?

1           A     That is correct.

2           Q     Thank you. How do you get to the Harris  
3     property when you go to inspect it?

4           A     Generally I go down, I believe it's Knox  
5     Highway 8 and park alongside the road and then walk  
6     across. I haven't gone down Market Street, or one  
7     or two occasions. Market Street happens to be a  
8     dead end street though, and to be quite honest I get  
9     confused trying to find it. I'm not from Knoxville  
10    and Knox Highway, I've had some other facilities on  
11    it and it's easy to find. It's a two lane road.

12          Q     Did anything you learn from Knox County  
13    Landfill or their personnel influence how you did  
14    your job with respect to Mr. Harris' property?

15          A     No.

16          Q     How does how you handle your job at this  
17    property compare to how you handle your job at any  
18    of the other sites that you inspect?

19          A     It's the exact same every time.

20                   MS. RYAN: Thank you.

21                   HEARING OFFICER WEBB: Any more?

22                   MR. KELLY: Nothing.

23                   HEARING OFFICER WEBB: Thank you.

24    Are you finished with your --

1 MR. KELLY: Yes.

2 HEARING OFFICER WEBB: Ms. Ryan,  
3 would you like to make any closing statement?

4 MS. RYAN: No, I'd like to reserve it  
5 for my brief.

6 HEARING OFFICER WEBB: Mr. Kelly,  
7 would you like to make any closing statement?

8 MR. KELLY: No, not at this time.

9 HEARING OFFICER WEBB: The transcript  
10 is due by September 9th and will be posted on the  
11 Board's website. The public comment deadline is  
12 September 10th. Public comment must be filed in  
13 accordance with Section 101.628 of the Board's  
14 procedural rules. The Agency's brief is due by  
15 September 23rd and the Respondent's brief is due by  
16 October 7th. At this time I'll conclude the  
17 proceedings and thank everyone for their  
18 participation.

19 MS. RYAN: Thank you.

20 \*\*\*\*\*HEARING ADJOURNED\*\*\*\*\*.

21

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23

24

1 STATE OF ILLINOIS :

2 COUNTY OF PEORIA :

3

4 I, Paula A. Morsch, a certified shorthand  
5 reporter in and for the County of Tazewell, State of  
6 Illinois, do hereby certify that the foregoing  
7 transcription is true and correct to the best of my  
8 knowledge and belief;

9 That I am not related to any of the parties  
10 hereto by blood or marriage, nor shall I benefit by  
11 the outcome of this matter financially or otherwise.

12

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 C.S.R.  
Paula A. Morsch, C.S.R. 84-002965

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18

19

20

21

22

23

24

A				
<b>a.m</b> 1:15 4:5	66:2 74:16	<b>angle</b> 18:12,18	<b>Assuming</b> 44:21	36:13 59:5
<b>aback</b> 55:23	<b>admit</b> 36:8	37:21	<b>attached</b> 9:19	74:2
<b>able</b> 33:3 63:22	42:11	<b>anonymous</b>	21:4 74:22	<b>beat</b> 40:9
<b>above-entitled</b>	<b>admitted</b> 21:22	23:18 24:8	<b>attorney</b> 2:9	<b>bed</b> 12:9,11
1:11	72:18	<b>answer</b> 68:13,17	4:21,23 25:16	20:16 45:11,18
<b>abruptly</b> 57:17	<b>adult</b> 50:16	<b>anticipated</b> 42:6	33:19 56:9	<b>beginning</b> 4:4
<b>AC</b> 1:5 4:3	<b>adults</b> 49:22,23	<b>anybody</b> 63:11	58:13,17 59:1	<b>belief</b> 78:8
73:20	<b>advance</b> 42:20	<b>apologize</b> 73:15	67:21	<b>believe</b> 5:8
<b>access</b> 27:17	42:23	<b>apparent</b> 33:13	<b>Attorney's</b> 58:7	24:10 26:19
41:14 47:18	<b>advisement</b>	33:20,23 74:10	<b>August</b> 1:14 4:4	27:16,19 28:2
<b>accessing</b> 47:14	32:20	<b>appear</b> 12:20	53:23 54:14	28:5,16 34:9
<b>accumulate</b> 57:5	<b>aerial</b> 35:12,16	53:7,17 71:7	<b>authority</b> 23:21	38:11 41:10
<b>accumulation</b>	51:21 52:11	<b>appearances</b>	25:21 43:8	43:2 74:21
10:3	<b>age</b> 29:7	4:19	<b>authorize</b> 54:1,8	76:4
<b>accuracy</b> 54:17	<b>agency</b> 1:3 4:7	<b>appears</b> 10:6,10	<b>Ave</b> 2:3	<b>bend</b> 46:1,1,6
<b>accurate</b> 8:20	4:22 5:7 6:3,9	11:12,21 12:7	<b>Avenue</b> 2:6	<b>benefit</b> 78:10
<b>accurately</b> 21:5	6:21 22:23	12:9 13:10,17	<b>aware</b> 43:8	<b>bent</b> 16:8
72:12	23:2,15,23	13:22 14:2,13	57:15	<b>best</b> 27:16 78:7
<b>accustomed</b>	25:2,5 31:22	15:23 16:10	<b>awareness</b> 7:20	<b>better</b> 30:20
35:19	32:19 43:11	17:22 19:19,21	<b>awhile</b> 36:5	34:12
<b>acquitted</b> 28:21	48:12 72:15	20:6,16 21:1	64:23	<b>beyond</b> 5:21
57:19,22 70:20	74:8,23	38:19,23		<b>big</b> 61:18
<b>Act</b> 4:9,15 41:4	<b>Agency's</b> 25:20	<b>application</b>		<b>biology</b> 7:13
41:7	47:3 77:14	41:12		<b>bit</b> 15:6
<b>action</b> 65:6	<b>aggregate</b> 18:1	<b>approach</b> 30:21	<b>B</b>	<b>blackened</b> 15:20
<b>actions</b> 25:6	<b>aggressive</b> 28:13	39:2 59:18	<b>Bachelor</b> 7:12	18:23 20:19
<b>active</b> 62:1	<b>ago</b> 55:5	<b>approximate</b>	<b>back</b> 16:9 17:2	<b>blood</b> 78:10
<b>activity</b> 26:9	<b>agree</b> 72:5	18:4	29:5 34:8,11	<b>blue</b> 14:3
<b>actual</b> 45:19	<b>ahead</b> 4:1 11:1	<b>approximately</b>	37:9 48:3 61:3	<b>board</b> 1:1 2:2
<b>addition</b> 17:16	53:13	7:9 11:5 16:1,3	63:1 65:18	4:11 5:22
<b>additional</b> 7:14	<b>air</b> 11:21	16:5,11 18:6	66:18 67:21	25:22,23 54:4
<b>address</b> 31:12	<b>alleged</b> 5:22	21:2 37:13	71:24 72:1	54:5 72:17
31:14	24:20 25:9	47:11	<b>background</b>	<b>Board's</b> 4:15,17
<b>adequately</b>	30:3,3	<b>area</b> 38:21,24	7:11 37:4,9	77:11,13
18:13	<b>alleges</b> 4:7	<b>argued</b> 69:2	<b>backwater</b> 17:6	<b>boss</b> 27:4
<b>adjacent</b> 44:11	<b>allow</b> 23:21	<b>arthritis</b> 52:20	45:15,17	<b>botanist</b> 37:13
45:6	<b>allowed</b> 23:19	<b>Arts</b> 7:12	<b>backwaters</b> 9:18	<b>bottom</b> 21:1
<b>ADJOURNED</b>	41:18 55:17	<b>asbestos</b> 7:19	17:9 18:13	53:21
77:20	<b>alongside</b> 11:12	<b>ash</b> 15:18 18:23	<b>banned</b> 54:21,22	<b>bought</b> 50:24
<b>administration</b>	76:5	<b>ashes</b> 10:19 12:6	<b>barred</b> 27:24	<b>Box</b> 2:10
25:19 74:5	<b>Alpha</b> 2:10	20:20	63:7	<b>bragging</b> 64:15
<b>administrative</b>	<b>Ameren</b> 50:5	<b>aside</b> 54:20	<b>barrel</b> 63:12	<b>break</b> 52:16
24:24 25:2,20	<b>amount</b> 60:20	<b>asked</b> 42:8	<b>barring</b> 58:8,10	<b>brick</b> 17:14,21
33:17 41:8,20	<b>amounts</b> 69:19	<b>Assistant</b> 4:21	66:12,22	17:24 19:1
	<b>and/or</b> 41:7	<b>assume</b> 44:23	<b>based</b> 73:16	<b>bricks</b> 10:4
			<b>basic</b> 7:19	
			<b>basically</b> 35:15	

11:19 <b>bridge</b> 9:5 <b>brief</b> 77:5,14,15 <b>broken</b> 14:24 <b>brought</b> 51:9 <b>brushy</b> 16:15 <b>bucket</b> 14:8,24 21:1 <b>buckets</b> 11:14 44:2,8 <b>bud</b> 36:18 <b>building</b> 9:9,12 10:4 17:21 36:4,6 52:14 61:16 64:23 68:23 <b>buildings</b> 18:2 <b>Bureau</b> 6:22 <b>burning</b> 5:10 10:7,16,20 15:19,21,24 18:24 19:10,19 20:2,14,20 32:18 34:1,1 47:23 59:6,7 63:11,11,12,12 63:13 <b>burnt</b> 10:12 11:13 12:7,10 13:11 19:23 20:21 <b>business</b> 21:10 21:13,16 27:19 50:10,11 51:1 56:18,21	<b>cans</b> 14:9 <b>canvas</b> 67:19 <b>career</b> 31:10 41:13,16 42:14 43:6,12 <b>Carol</b> 1:18 2:2 4:2 <b>carol.webb@i...</b> 2:4 <b>case</b> 4:7,12 22:22 23:3 24:7,22 25:11 25:17,19 33:19 34:1 68:23 <b>cases</b> 30:1,9 31:4 65:11 <b>casing</b> 13:9 14:4 19:19 <b>casings</b> 13:4 <b>catch</b> 65:11 <b>cause</b> 1:11 66:22 <b>caused</b> 70:23 <b>center</b> 11:20 13:3,17 16:17 17:9,23 19:23 20:15 38:13,18 <b>centrally</b> 65:17 <b>cents</b> 57:1,2,5 <b>certain</b> 34:11 <b>certified</b> 1:13 78:4 <b>certify</b> 78:6 <b>chain</b> 31:22 32:1 32:3 <b>changed</b> 18:13 18:17 <b>channels</b> 25:4 <b>charge</b> 28:22 51:9 54:1,8 57:20 63:15,19 68:9 70:9,16 70:20 <b>charged</b> 42:3 57:18 66:23 67:10 70:18	<b>charges</b> 28:4 58:14 63:20 <b>charred</b> 13:13 15:23 <b>charring</b> 20:1 <b>children</b> 49:20 49:21 <b>circumstances</b> 5:20 <b>citation</b> 24:24 25:3,20 33:17 71:10 72:6 74:5 75:20,24 <b>cited</b> 43:24 73:24 75:18 <b>citing</b> 33:13 <b>citizen</b> 55:24 <b>city</b> 1:16 50:1,3 53:23 <b>clean</b> 74:3 <b>clear</b> 4:14 39:5 39:12 40:12 <b>clearly</b> 38:21 39:8 40:12 <b>clerk's</b> 72:20 <b>close</b> 51:20 <b>close-up</b> 10:15 12:2 15:15 19:10,21 20:14 <b>closing</b> 77:3,7 <b>Coal</b> 59:3 63:15 63:16 64:7 <b>Code</b> 41:8 <b>collect</b> 41:19 <b>collected</b> 5:24 <b>college</b> 7:13,15 <b>collision</b> 70:18 <b>come</b> 6:6 13:22 20:17 23:5,13 23:14,18 31:7 <b>coming</b> 54:18 <b>command</b> 31:22 32:1,3 <b>comment</b> 77:11 77:12	<b>commonly</b> 17:20 <b>company</b> 50:5 <b>compare</b> 76:17 <b>compelled</b> 5:19 <b>complainant</b> 1:4 2:8 3:1 24:9,10 <b>complainants</b> 48:1 <b>complaint</b> 22:12 22:14,16,19 23:5,9,10,10 23:16,17,19 24:4,6,18 26:16 30:2 31:18 47:1,2 48:3 50:21 66:3 73:16 <b>complaints</b> 7:5 22:20,23 23:13 23:18 24:8 31:6 47:20 <b>complete</b> 8:20 21:9 32:2,16 33:13 <b>compliance</b> 41:6 74:7 75:1,17 <b>complied</b> 23:2 <b>computer</b> 62:17 <b>concede</b> 44:24 <b>conceded</b> 66:5 <b>conclude</b> 77:16 <b>concrete</b> 17:14 17:21 19:1 37:23 38:19 <b>conditioning</b> 11:21 <b>conditions</b> 61:21 62:13 71:14 <b>conduct</b> 4:12 41:5 51:1 <b>conducted</b> 4:16 7:9 8:8 19:18 22:11 24:19 26:13,15 27:21 46:10,19	<b>conducting</b> 19:14 21:10 <b>confidential</b> 24:7 <b>confused</b> 76:9 <b>connected</b> 24:15 <b>consider</b> 5:23 42:9,10 <b>constitute</b> 40:16 <b>constitutes</b> 38:9 <b>constitutional</b> 5:24 41:11 <b>construction</b> 5:12 17:7,19 <b>contact</b> 29:4 30:16 34:5 44:14 <b>contacting</b> 31:1 31:5,17 <b>container</b> 10:16 10:21 11:11 12:2,6,8,18 13:12 15:18,20 15:22 16:2,7,8 16:10 19:19,21 20:1,8,9 21:2 <b>containers</b> 10:6 10:9,22 11:5 11:23 63:13 66:10 <b>containing</b> 15:18 <b>contains</b> 12:6 <b>context</b> 51:14 <b>continue</b> 11:1,16 75:12 <b>continuing</b> 10:14 11:3 12:1 13:1 75:19 <b>contract</b> 30:5 <b>contrast</b> 12:17 <b>control</b> 1:1 2:2 4:11 5:21 25:21,23 63:14
--	---	--	---	---

## C

C.S.R 1:12

78:14

call 6:3,4 23:11

48:15 50:6

56:6 72:15

called 6:9 46:5

49:3

calling 34:15



<b>copied</b> 60:16	57:24	<b>day</b> 1:14 21:10	<b>deposited</b> 17:8	<b>displaying</b> 20:19
<b>copy</b> 8:21 29:24	<b>course</b> 21:13,15	29:7	18:14	<b>displays</b> 20:1
30:8 35:6	41:13 42:14	<b>days</b> 22:24 23:6	<b>deposition</b> 5:10	<b>dispose</b> 51:2,4
74:21 75:3	43:6	<b>dead</b> 8:2 9:3	5:11	<b>disposed</b> 33:24
<b>corner</b> 12:4	<b>court</b> 6:17 25:18	11:20 13:16	<b>depth</b> 16:6	<b>distance</b> 15:11
13:20 14:12	25:23 28:19,20	16:17 17:9	<b>describe</b> 8:23	<b>distant</b> 15:16
15:9,10 17:14	48:19 68:17,18	38:13,18 76:8	10:8 12:11	<b>doctor</b> 50:1
18:7 20:5	69:13	<b>deadline</b> 77:11	45:24	<b>document</b> 8:13
<b>correct</b> 12:19	<b>courts</b> 65:9	<b>debris</b> 5:12	<b>described</b> 35:21	74:24
22:9 23:8 28:7	<b>cover</b> 20:6 35:10	10:19 11:19	<b>description</b>	<b>documentation</b>
32:24 37:4	60:24	12:6 13:18	34:12	52:23 53:8,18
38:10 40:23	<b>covered</b> 67:15	15:8 17:8,12	<b>desire</b> 26:5	<b>documents</b>
44:10 51:22	67:16,18,19	17:18,20 19:2	<b>desired</b> 34:24	57:24 67:20
52:9 54:11,16	<b>creek</b> 8:2 9:4,6	38:1,9 60:20	<b>determine</b> 10:12	<b>doing</b> 47:10
60:17 66:3,20	9:12,16,18	61:16 74:3	11:22 14:19	50:11 63:8
70:8 73:18	13:3,24 16:16	<b>decision</b> 4:11	16:22 41:6	<b>dollars</b> 64:6,9,10
75:20,21 76:1	17:6 18:14,23	31:21	<b>different</b> 33:15	64:11,18 69:13
78:7	20:13 45:11,18	<b>decisions</b> 31:20	35:16 37:21	69:21,24
<b>corrective</b> 25:6	52:17	32:13	56:22 57:19	<b>door</b> 29:20
<b>correctly</b> 29:10	<b>criminally</b> 70:18	<b>deed</b> 29:24 30:6	62:7	30:13
52:1	<b>cross</b> 3:4,10,15	30:9	<b>difficult</b> 10:12	<b>double</b> 51:9 54:1
<b>correspondence</b>	22:2,5 67:5	<b>defend</b> 68:14	11:22 14:19,23	54:8 55:9,16
29:11 30:11	75:10,15	<b>defenses</b> 5:14,19	15:11 16:9,22	55:20,22 56:4
34:10	<b>crosses</b> 9:6	<b>definitely</b> 62:15	19:7 24:5 29:7	56:5,11 58:14
<b>corresponds</b>	<b>cure</b> 25:10 26:2	66:24	34:6	67:11
60:5	26:6	<b>definition</b> 24:13	<b>direct</b> 3:3,9,14	<b>doubled</b> 51:10
<b>cost</b> 63:21 64:7	<b>curved</b> 12:14	<b>degree</b> 7:12,15	6:14 49:8	70:13
<b>couch</b> 10:17	<b>customers</b> 64:14	37:11	73:13 75:11	<b>Dred</b> 51:11
20:17	<b>cut</b> 46:1	<b>demolished</b> 18:2	<b>direction</b> 14:6	<b>dries</b> 46:9
<b>couches</b> 10:10		<b>demolition</b> 5:12	16:15 17:3	<b>drive</b> 62:14
<b>council</b> 53:23	<b>D</b>	11:19 13:18,19	18:12,22 19:13	<b>dry</b> 13:17
<b>counsel</b> 53:1	<b>D</b> 49:11	14:16 15:8	19:17	<b>due</b> 77:10,14,15
<b>count</b> 67:23	<b>damage</b> 69:9,10	17:8,19,20	<b>directly</b> 13:15	<b>Duffield</b> 49:13
<b>county</b> 1:16 4:10	69:13,15 70:16	18:16 19:1	59:8	<b>duly</b> 6:10 49:4
24:15 25:18	70:23	<b>denied</b> 27:17	<b>disclose</b> 23:20	73:9
26:14,17,20	<b>dandelions</b>	<b>deny</b> 41:14	23:22	<b>dump</b> 27:17
27:24 47:2	14:21	<b>depart</b> 29:23	<b>discourages</b>	28:16 30:2
51:5,11 53:1,9	<b>date</b> 54:20,24	<b>department</b>	65:21	51:8 55:18
54:3,5,22 57:8	74:14	56:7	<b>discuss</b> 5:2 25:9	56:5 61:24
57:15 58:1,8	<b>dated</b> 8:16 53:5	<b>depending</b>	26:1,5 27:14	<b>dumped</b> 51:10
58:20 63:7,22	53:15 58:1,6	22:22	27:23 28:3	56:2,3
64:19 66:22	<b>dates</b> 54:18	<b>depends</b> 33:2	29:2 30:19,21	<b>dumping</b> 5:9
67:11,24 68:19	<b>dating</b> 34:10	45:9	<b>discussed</b> 20:4	32:17 47:22
76:12 78:2,5	<b>daughter</b> 50:2,4	<b>depict</b> 21:5	65:23	64:8 66:8,9
<b>couple</b> 41:16	<b>Davenport</b> 57:1	<b>depicted</b> 72:12	<b>discussion</b> 62:23	70:11

<b>duplicate</b> 68:6	<b>environmental</b>	<b>excludes</b> 40:15	55:16,21,23	<b>fingers</b> 52:20
<b>duress</b> 5:20	1:3 4:9,22 6:20	<b>Excuse</b> 19:14	56:11 58:14	<b>finish</b> 63:2
<b>duties</b> 7:2,4	6:21 7:2 41:3,7	<b>excused</b> 62:16	67:11	<b>finished</b> 72:21
26:16 28:24	<b>EPA</b> 2:6 21:12	<b>exhibit</b> 8:12	<b>feed</b> 66:14	72:22 76:24
47:1	21:15 43:4	21:19,21 35:10	<b>feel</b> 66:21 70:22	<b>first</b> 6:3,10
<b>E</b>	47:9 66:18,23	37:18 44:1	<b>fees</b> 57:12 64:2	11:24 27:21
<b>E</b> 2:3	<b>Eric</b> 69:6	53:21 60:17	64:12	35:10 49:4
<b>earlier</b> 10:5 11:7	<b>escapes</b> 27:5	62:3,6 72:15	<b>feet</b> 21:3	54:24 56:1
33:3	<b>ESQ</b> 2:5,9	72:16,18 74:17	<b>fellow</b> 26:14	59:24 60:4
<b>early</b> 36:17	<b>essentially</b> 18:17	<b>exhibits</b> 35:2	<b>fellow's</b> 27:4	65:10 73:9
<b>easier</b> 29:6	35:11 37:19	<b>exist</b> 74:23	<b>felonies</b> 57:19	<b>five</b> 11:13 12:1
31:12 34:13	50:16 51:21,24	<b>existed</b> 26:19	<b>felt</b> 66:9	16:5,5 18:8
<b>east</b> 2:6 9:4 17:1	74:9 75:2	61:22 71:14	<b>fence</b> 9:12 11:7	27:11,12 38:19
19:13,16	<b>establish</b> 55:1	<b>experience</b> 30:4	11:9,12,14	63:24 64:11
<b>easy</b> 29:19 64:1	56:1	<b>explain</b> 31:4	12:3 15:7	67:23
65:11 76:11	<b>estimate</b> 16:6	<b>explained</b> 33:2	44:21	<b>flash</b> 56:7
<b>edge</b> 9:13 11:8	<b>event</b> 21:17	<b>extra</b> 38:10 57:3	<b>fewer</b> 36:16	<b>flip</b> 9:2
36:1 39:10	<b>everybody</b> 71:24	68:4 71:23	<b>field</b> 6:22 7:4	<b>flowing</b> 5:11
40:4	<b>evidence</b> 5:8,22	72:1	11:9,10 45:6	<b>follow</b> 43:15,16
<b>educational</b> 7:11	5:23 10:19	<b>F</b>	60:22	43:22 48:6
<b>efforts</b> 30:16	15:18 20:19	<b>F-I-G-G-E</b> 6:18	<b>fifty</b> 33:5 37:14	68:9,11,15,21
33:8	21:20,22 40:17	<b>facilities</b> 7:7	<b>fifty-seven</b> 64:8	69:2 75:11
<b>eight</b> 46:18	41:19 71:4	76:10	<b>Figge</b> 3:2,13 6:4	<b>follow-up</b> 70:4
50:13	<b>evidenced</b> 13:12	<b>facing</b> 11:18	6:5,8,18 22:7	74:4
<b>either</b> 27:8	17:4	13:2,15,24	46:18 48:9	<b>following</b> 33:18
30:22 58:22	<b>evidently</b> 69:12	14:11 18:11,21	65:23 72:23	<b>follows</b> 6:12
69:22	<b>exact</b> 16:23 68:5	19:12,17 20:13	73:5,7	49:6 73:11
<b>electric</b> 56:24	74:14 76:19	<b>fact</b> 17:9 29:12	<b>figure</b> 31:14	<b>foot</b> 16:5,5 18:8
57:3	<b>exactly</b> 10:12	42:2 54:13	64:2,5	<b>foregoing</b> 78:6
<b>electronically</b>	15:1,12 33:12	<b>failed</b> 69:2	<b>file</b> 47:3,6,13	<b>foreground</b> 14:2
23:15	34:20	<b>failure</b> 68:9,11	72:19 73:21	18:23
<b>ends</b> 9:3	<b>EXAMINATI...</b>	68:21	75:4	<b>forget</b> 59:3
<b>enforcement</b>	6:14 22:5	<b>fair</b> 8:20 56:9	<b>filed</b> 66:3 77:12	<b>forgetting</b> 73:15
25:14,17 33:18	46:16 49:8	66:20	<b>fill</b> 16:10	<b>form</b> 22:16
<b>enlighten</b> 59:10	67:5 70:6	<b>fairly</b> 60:20	<b>final</b> 4:11	23:10,12,17
<b>entails</b> 25:14	73:13 75:15	<b>familiar</b> 7:21	<b>financially</b>	28:9 30:11
<b>enter</b> 9:10 10:1	<b>examine</b> 22:2	<b>fan</b> 13:4,21	78:11	48:4
40:23 41:2,4	<b>examined</b> 6:11	<b>fans</b> 57:4	<b>find</b> 29:6 31:4	<b>formal</b> 25:14,16
41:19 42:7,12	49:5 73:10	<b>far</b> 20:23 28:14	34:9 36:5 55:1	33:18 34:19,22
<b>entered</b> 55:16	<b>example</b> 33:9	33:20 45:12	68:4 76:9,11	<b>formally</b> 46:5
<b>entering</b> 43:3	45:13 52:14	<b>farm</b> 16:14	<b>finer</b> 31:19,20	<b>forms</b> 24:6 46:2
<b>enters</b> 9:14	56:24 63:23	<b>features</b> 9:15	32:7,12 42:3	<b>forth</b> 53:7
13:16	<b>exceptions</b> 58:9	<b>February</b> 55:3	65:10 66:6	<b>forty</b> 57:1
<b>entire</b> 43:11	<b>excess</b> 7:10	<b>fee</b> 54:2,9 55:9	73:24	<b>forty-seven</b>
	<b>excluded</b> 6:1		<b>finger</b> 39:7	49:19 50:13

<b>found</b> 26:6 34:9 57:21 73:24 74:2 <b>four</b> 8:10 18:8 38:5 49:21 60:8 62:9 <b>Fourteen</b> 40:15 <b>frame</b> 19:5 <b>free</b> 74:3 <b>freezer</b> 13:10 <b>frequently</b> 28:24 <b>Friday</b> 55:3 <b>front</b> 51:16 54:23 57:16 69:17 <b>full</b> 51:12 <b>furniture</b> 10:11 10:17 13:11 19:22 20:18 <b>further</b> 11:3,17 13:5 15:3,6 21:23 48:7	76:4 <b>generated</b> 21:8 23:10,13 74:12 74:15 <b>Gibson</b> 69:6 <b>give</b> 19:4 42:11 56:24 63:23 <b>given</b> 42:7 <b>gives</b> 19:9 <b>glare</b> 40:9 <b>glass</b> 17:13,16 18:3,5 38:3,3,5 40:15 <b>go</b> 4:1 11:1 29:1 29:23 33:9 35:2,6 41:15 51:19 52:19,22 53:13 54:24 56:8 58:22 59:2,4 62:19 63:14 64:5,6 64:14 76:3,4 <b>goes</b> 9:10 20:23 <b>going</b> 8:11 29:5 31:3 34:8 35:5 45:21 52:4 53:5,24 54:7 61:2 63:16 64:21 65:2 66:17 68:17 71:3 72:16 <b>good</b> 4:2 14:13 15:16 22:7,8 48:15 64:13 67:16 <b>goods</b> 11:20 13:5,22 <b>Google</b> 52:6 72:1 <b>grab</b> 65:19 <b>graduated</b> 7:13 <b>Grand</b> 2:3,6 <b>gravel</b> 18:1 <b>greater</b> 63:18 <b>green</b> 11:9 12:5	16:18 57:14 <b>Greg</b> 26:24 27:2 28:15,17 54:22 57:11 68:16 69:11 70:22,24 <b>Greg's</b> 27:4 <b>ground</b> 13:6 15:19 66:8,10 <b>grounds</b> 45:2 <b>groundwater</b> 7:17 <b>guess</b> 13:9 34:3 38:8 <b>guilty</b> 57:21 <b>guy</b> 67:16	29:13 34:5,23 40:21 44:19 45:3,10 47:13 48:17,18 49:2 49:11,12 50:11 53:10 59:12 63:5 67:7,7 70:3 71:16 72:23 73:18 74:20 75:2 76:2 <b>Harris'</b> 5:18 9:8 26:15 27:22 29:8 47:2,10 48:17 76:14 <b>haul</b> 50:8 <b>hauling</b> 51:3 <b>Haw</b> 8:2 9:3,6 9:18 13:2 16:15 17:6 18:22 20:13 <b>hay</b> 11:10 <b>hazardous</b> 7:16 <b>he'll</b> 59:2 <b>headed</b> 9:11 <b>heading</b> 10:2 <b>hear</b> 66:13 <b>hearing</b> 1:11,18 4:1,3,12,14 5:1 5:6,16 6:2,5 21:21 22:1 25:1,22 35:6 39:3 46:14 48:6,8,11,14 48:18 59:19 62:19 63:1 67:3 70:4 71:20 72:4,14 73:1,4 75:13 76:21,23 77:2 77:6,9,20 <b>heavy</b> 63:16 <b>held</b> 6:24 53:10 62:23 <b>help</b> 31:8	<b>hereto</b> 78:10 <b>hides</b> 68:23 <b>Highway</b> 9:5 76:5,10 <b>hit</b> 28:17 69:17 <b>hold</b> 10:6 <b>home</b> 29:20 30:12,14 <b>honest</b> 76:8 <b>honestly</b> 34:6 42:14 <b>Honor</b> 39:1 <b>hopefully</b> 35:7 <b>hospitable</b> 64:4 <b>hour</b> 1:15 7:16 <b>hours</b> 27:19 28:16 51:8 <b>houses</b> 13:19 14:17 <b>hundred</b> 46:18 59:5 64:1,6,9 64:10,11,18
<b>G</b> <b>G-E-N-E</b> 6:18 <b>Galesburg</b> 1:16 49:13 57:2 <b>gallon</b> 11:14 63:24 <b>gas</b> 50:5 64:6 <b>gate</b> 67:16 <b>Gene</b> 3:2,13 6:4 6:8,18 73:7 <b>general</b> 4:21 13:6 14:1,6,8 14:19 15:10,16 16:15,16,20 17:7,19 33:19 35:12 37:10 74:7,24 <b>General's</b> 25:16 <b>generally</b> 8:23 13:18 14:16 18:1 21:9 22:20 30:9		<b>H</b> <b>half</b> 17:6,12 37:10 69:23,24 70:8,13 <b>halfway</b> 16:11 <b>hand</b> 8:11 10:18 12:16 13:20 14:6 15:21 18:15 19:24 20:14 35:5 38:4,14,22 <b>handing</b> 59:20 <b>handle</b> 76:16,17 <b>handled</b> 30:11 <b>hands</b> 32:21 <b>hang</b> 67:22 <b>happen</b> 24:2 43:6 66:17 <b>happened</b> 41:15 56:1 57:10 <b>happens</b> 76:7 <b>hard</b> 30:7 31:14 <b>Harris</b> 1:6 2:11 3:8 4:4,24 5:13 7:21 8:4,6,9 24:4,20 25:7 26:1,5,9,18 27:9,15,17 28:10,15,17,21		<b>I</b> <b>idea</b> 46:22 <b>identification</b> 8:12 <b>identified</b> 17:18 18:3 <b>identify</b> 14:22 14:23 16:1 59:23 <b>IEPA</b> 2:8 4:3 25:9 <b>IL</b> 2:3 <b>Illinois</b> 1:1,3,14 1:16 2:2,6,7,10 4:21 6:21 21:12,15 25:16 25:21 41:8 47:9 49:13 50:21 72:12 78:1,6 <b>immediately</b> 56:6

<b>impact</b> 63:21	<b>Ingles</b> 57:11	<b>investigation</b> 7:5	59:2 63:19	<b>land</b> 6:22 29:2,4
<b>impede</b> 35:8	68:16 69:11	31:6	64:7,8	29:5,15,21
<b>implement</b>	<b>initial</b> 29:13	<b>invoices</b> 69:9	<b>kind</b> 12:14	<b>landfill</b> 24:16
54:15	47:5,7	<b>Iowa</b> 57:1	36:12 39:6	26:14,21 27:18
<b>implementation</b>	<b>initially</b> 34:8	<b>irrelevant</b> 30:22	<b>kinds</b> 33:15	28:1 51:5,12
52:24	<b>initiated</b> 34:22	<b>issue</b> 56:10	49:24	53:1,9,9,18
<b>imposed</b> 31:21	<b>inside</b> 16:7	58:13	<b>knew</b> 24:9 48:1	54:1,8,14,21
55:20,22	44:19	<b>issued</b> 25:20	64:4	55:17 56:16,19
<b>imposition</b>	<b>inspect</b> 76:3,18	33:17	<b>knock</b> 29:19	57:8 58:1,4,8
31:18 32:7,11	<b>inspected</b> 22:24	<b>item</b> 14:22 20:18	30:13	58:12,20 63:7
55:9	26:18 36:13	<b>items</b> 16:22	<b>know</b> 11:9 23:11	63:22 64:3
<b>impression</b> 28:9	41:23 74:2	40:11 64:20	23:16,19 24:2	66:7,12,13,22
<b>improperly</b>	<b>inspection</b> 8:16	65:22,24,24	24:3 26:8,9,20	67:24 68:10,12
70:14	19:14,18 20:12		26:22 31:3	68:19 76:13
<b>improvements</b>	21:9,11 22:11	<b>J</b>	32:17 36:19	<b>lane</b> 9:5,10,13
9:7	23:6 24:19,23	<b>James</b> 1:6 2:11	37:24 42:24	10:1,2,3 11:4,8
<b>inappropriate</b>	29:1,9 31:17	3:8 4:3,24 8:4	44:11,17 45:11	11:17 12:3
68:13	31:24 32:4,10	48:17 49:2,11	50:9 54:18	13:1,16,17
<b>inches</b> 18:7,8	33:3,13 44:6	<b>January</b> 58:1	64:2 68:20	14:12 15:4,7
<b>incident</b> 28:2,14	46:10,20 47:5	<b>Jerry</b> 27:6 58:4	69:1,4,15	16:14 17:1
51:7 55:23	47:7,21 72:15	58:24 68:1,23	<b>knowledge</b> 26:3	35:20,23 45:13
71:9	74:4,7,9,15	<b>job</b> 6:19,24	42:2 44:16	76:11
<b>inclination</b>	<b>inspections</b> 7:4	76:14,16,17	78:8	<b>large</b> 14:22 20:8
34:23	7:6,6,8 8:8	<b>jug</b> 15:9	<b>known</b> 24:11	60:20 61:17,18
<b>include</b> 7:4	26:13,15 27:21	<b>July</b> 53:5,15	<b>Knox</b> 1:16 4:10	<b>laughing</b> 66:17
25:15	29:13 41:6	61:20	9:4 24:15	<b>law</b> 2:9 51:13
<b>indicate</b> 13:4	46:19 47:10	<b>jumped</b> 57:15	25:18 26:13,17	68:18
19:4	73:17		26:20 27:24	<b>lawyer</b> 50:2
<b>indicated</b> 47:13	<b>inspectors</b> 26:14	<b>K</b>	47:2 51:5,11	<b>lead</b> 53:6
47:18 69:20	26:17	<b>Kansas</b> 50:1,2	53:1,9 57:8	<b>leaf</b> 37:2
<b>indicating</b> 18:24	<b>instruction</b>	<b>keep</b> 21:12	58:1,7,20 63:7	<b>leafed</b> 36:22
20:2 68:4	43:14 69:2	34:13	63:22 64:19	<b>leafing</b> 37:11
<b>indications</b> 19:1	<b>instructions</b>	<b>Kelly</b> 2:9 3:4,9	66:21 67:11,24	<b>learn</b> 76:12
<b>individual</b> 41:13	68:10,11,16,21	3:11,14 4:23	68:18 76:4,10	<b>leave</b> 54:20
<b>inferior</b> 35:6	68:21	4:23 5:5,16,18	76:12	<b>leaves</b> 36:16,16
<b>influence</b> 76:13	<b>interior</b> 14:14	22:2,3,6 39:1	<b>Knoxville</b> 4:10	<b>left</b> 11:18,22
<b>informally</b>	<b>interpretation</b>	46:12 48:7,15	5:14 7:22 8:2	12:4,16 14:6
25:24	41:17 43:9	48:16 49:9	50:21 51:22	15:21,24 17:20
<b>information</b>	<b>interrupt</b> 31:23	63:2,4 67:1	61:3 62:11	18:1,6 20:14
23:20 34:23	<b>investigate</b>	70:7 71:1,5,13	63:6,8 72:11	37:10 38:7
66:14	29:16 33:10	71:17 72:9,22	73:18 76:9	<b>left-hand</b> 14:12
<b>informed</b> 43:14	<b>investigated</b>	73:14 75:8		15:10 17:14
<b>Ingle</b> 27:2 54:22	22:21	76:22 77:1,6,8	<b>L</b>	20:5
70:23	<b>investigating</b>	<b>kept</b> 24:6	<b>lack</b> 34:12	<b>legal</b> 33:20
<b>Ingle's</b> 70:24	30:1	<b>Kickapoo</b> 58:23	<b>lake</b> 46:3	<b>legally</b> 30:6

<b>legitimate</b> 67:15	<b>look</b> 10:2 12:7	12:10 14:9,18	<b>money</b> 57:12,13	69:21
<b>legs</b> 12:21	13:3 15:19,21	16:6 18:14,24	65:13	<b>non-secured</b>
<b>let's</b> 27:10 30:1	17:9 18:15	19:4 38:20	<b>monitoring</b> 7:18	68:9
37:6 51:19	19:8,23 20:5	51:4 61:17	<b>Monmouth</b> 7:13	<b>normal</b> 25:4
52:19 54:20	33:9 35:17	64:24	<b>morning</b> 4:2	<b>normally</b> 51:2,4
60:3,11,12	36:21 37:6	<b>materials</b> 51:2	22:7,8	<b>north</b> 9:13 11:8
<b>letter</b> 33:9 34:18	38:11,18,20,22	<b>matter</b> 28:18,20	<b>Morsch</b> 1:12	12:3 15:3,6,15
53:4,7,15 58:1	39:7 40:4	30:19,21 43:14	78:4,14	35:18 36:3,4
58:6 69:6,20	59:12 67:20	78:11	<b>motor</b> 13:21	44:12 52:1,9
74:8,22 75:1	69:5 73:21	<b>matters</b> 5:2	<b>motors</b> 56:24	61:4,5 62:10
<b>letters</b> 33:22	<b>looked</b> 29:8	<b>mean</b> 37:24	57:3	<b>noted</b> 29:9
<b>liable</b> 69:14	<b>looking</b> 12:12	<b>meant</b> 68:20	<b>move</b> 21:19	<b>notice</b> 24:20
<b>License</b> 1:12	16:9 22:15	<b>meet</b> 25:8 26:1,5	<b>moved</b> 15:3	25:3,4,5,7,12
<b>lie</b> 68:15	35:10 39:4	29:2,11,22	<b>moving</b> 11:17	30:12 33:14
<b>life</b> 50:16	40:5 48:3 53:4	30:10 33:6	13:23 14:10	34:14 37:9
<b>light</b> 57:14	53:14 57:23	34:24	15:2,14	74:8
<b>limitations</b>	62:5 68:3	<b>meeting</b> 29:17	<b>multi-increme...</b>	<b>noticed</b> 4:15
41:11	74:13	32:23 59:1	7:19	63:10
<b>line</b> 9:12 11:7,15	<b>looks</b> 17:23 38:6	<b>melted</b> 44:3	<b>murky</b> 39:6	<b>notices</b> 24:22
15:7 44:21	52:11	<b>members</b> 4:5,11		33:15,22
<b>lines</b> 12:18 29:5	<b>lost</b> 35:22	<b>mentioned</b> 9:16	<b>N</b>	<b>number</b> 9:22,24
33:18	<b>lot</b> 29:22 32:22	11:7 17:17	<b>N</b> 2:3,6	10:14,15,21,23
<b>litter</b> 5:10 16:17	<b>lower</b> 14:12 15:9	63:10	<b>name</b> 4:2 6:16	11:3 14:5 29:8
32:17	17:6,12 18:7	<b>met</b> 8:5 22:9	6:18 26:24	29:9 34:9,10
<b>little</b> 17:5 39:20	20:24 38:4,7	29:12 33:1	27:1,4,4 49:10	34:16 73:22
66:14	<b>lumber</b> 13:18	40:21	59:3	<b>numbers</b> 29:6
<b>live</b> 49:12	14:16 15:8	<b>metal</b> 10:19 12:6	<b>narrow</b> 31:8	<b>numerous</b> 65:7
<b>living</b> 50:9 64:12	20:21,21	12:20 13:7,12	<b>natural</b> 9:15	
<b>load</b> 51:9 55:18		14:4 17:22	<b>nature</b> 17:17	<b>O</b>
56:2,4,24 57:6	<b>M</b>	19:19 56:19,20	28:13 46:3	<b>o'clock</b> 4:5
57:13 63:16	<b>main</b> 46:2	<b>Michelle</b> 2:5	47:20 69:15	<b>oath</b> 73:5
68:9	<b>manner</b> 4:13	4:20 53:5	<b>nearly</b> 28:17	<b>object</b> 20:23
<b>loads</b> 58:22	<b>map</b> 35:12 51:21	<b>middle</b> 14:15	<b>need</b> 33:21,23	41:18 42:24
<b>locate</b> 29:14	60:23 61:1,4	39:22 68:8	56:19 62:17	43:2,5 66:21
34:6	72:1	<b>mile</b> 64:1	<b>needed</b> 57:7	71:6
<b>located</b> 4:10	<b>Mark</b> 2:9 4:23	<b>miles</b> 59:5 63:24	<b>needs</b> 29:3 33:24	<b>objected</b> 47:13
7:24 8:1 9:1	<b>marked</b> 8:11	<b>military</b> 50:18	<b>neutral</b> 4:13	72:13
11:11 12:2,19	<b>Market</b> 5:13 8:1	<b>mind</b> 26:10 34:4	<b>never</b> 22:9 29:12	<b>Objection</b> 44:5
61:1,2 65:18	9:2,3 61:7,9,10	48:19	29:21 34:21,22	<b>objects</b> 12:20
<b>location</b> 12:4	61:13 62:10,14	<b>mine</b> 68:5,5	44:14 46:9	<b>observation</b>
15:5 45:1 62:2	72:11 76:6,7	70:24	74:1	46:20
<b>long</b> 6:24 18:8	<b>marriage</b> 78:10	<b>minister</b> 50:2	<b>new</b> 50:4 75:22	<b>observations</b>
22:17 47:9	<b>married</b> 49:16	<b>minute</b> 62:20	<b>nine</b> 64:18	75:22
49:18 50:12,23	49:17	<b>mistaken</b> 24:8	<b>ninety</b> 69:24	<b>observed</b> 74:10
51:6	<b>material</b> 10:6	<b>mixed</b> 17:13	<b>ninety-three</b>	<b>obtain</b> 29:24

<b>obtained</b> 5:23	45:11 48:14	16:23	70:13 73:24	<b>Peoria</b> 6:22
<b>obviously</b> 20:21	51:18 52:22	<b>outcome</b> 78:11	<b>pale</b> 21:1	26:19 78:2
29:18 36:15	53:4,6,16,20	<b>outside</b> 19:24	<b>pallet</b> 14:5	<b>percent</b> 33:5
40:21	54:5,10 57:7	<b>outstanding</b>	<b>panel</b> 16:9	37:14
<b>occasion</b> 27:18	58:11 59:4,22	69:8	<b>paragraph</b>	<b>percentage</b>
29:12 52:23	60:1,14 61:2,4	<b>owned</b> 50:23	37:24	29:15 46:22
<b>occasional</b> 45:18	63:21,23 68:7	<b>owner</b> 29:2,4	<b>parameter</b>	<b>perform</b> 29:1
<b>occasions</b> 76:7	68:20 69:4	30:3,4,16,22	55:15	<b>performed</b>
<b>occurred</b> 5:12	72:14 73:1,4	31:7,17 32:24	<b>parameters</b> 55:1	73:17
55:23	<b>old</b> 34:15 49:14	33:2	<b>Pardon</b> 54:3	<b>permission</b>
<b>occurs</b> 45:24	49:15 57:12	<b>owners</b> 29:15,21	<b>park</b> 76:5	40:22 41:2
<b>October</b> 77:16	64:16	<b>ownership</b>	<b>part</b> 20:2,24	42:7,12,19,23
<b>offer</b> 71:3 72:7,8	<b>oldest</b> 50:1	29:23	31:5 42:23	<b>permitted</b> 7:6
72:9,19	<b>once</b> 13:1 14:11	<b>owns</b> 8:3 31:12	43:15,17 45:18	<b>person</b> 44:15
<b>offered</b> 25:8	19:12,18 64:22	31:14 33:10	56:21	<b>personally</b> 30:10
<b>office</b> 6:23 25:16	<b>ones</b> 16:4 39:11	44:11,17	<b>partial</b> 38:6	58:10
26:15 58:7	<b>open</b> 5:9,10 10:7	<b>oxbow</b> 45:15,16	<b>partially</b> 10:11	<b>personnel</b> 76:13
72:20 75:4	11:13 12:7	45:19,20,23,24	17:11 19:23	<b>persons</b> 26:8
<b>officer</b> 1:18 4:1	13:11 15:18,21	46:5	20:20	<b>phone</b> 23:14
5:1,6,16 6:2,5	15:24 18:24		<b>participate</b>	29:6,8 34:9,10
21:21 22:1	19:10,19 20:2		32:14	<b>photo</b> 36:20
35:7 39:3	20:14,20 30:1	<b>P</b>	<b>participation</b>	61:19,22,23
46:14 48:6,8	32:17,17 34:1	<b>P-1</b> 4:8	77:18	62:3
48:11,14,18	34:1 47:22,22	<b>P-3</b> 4:8	<b>particular</b> 25:1	<b>photograph</b>
59:19 62:19	59:6 63:11,13	<b>P-4</b> 4:8	25:11,19 27:15	9:22,24 10:14
63:1 67:3 70:4	<b>opening</b> 5:7,17	<b>P-7</b> 4:9	29:12	10:15,18,21,23
71:20 72:4,14	<b>operate</b> 50:12	<b>P.O</b> 2:10	<b>parties</b> 4:18	11:16,21 12:1
73:1,4 75:13	56:20	<b>packet</b> 35:5,8	78:9	12:15,24 13:3
76:21,23 77:2	<b>operating</b> 67:7	51:16 57:24	<b>pass</b> 53:24 54:7	13:5,21,23
77:6,9	<b>Operations</b> 6:22	59:13 60:3,6,8	59:22 61:6	14:5,7,10,15
<b>official</b> 24:11,14	<b>operator</b> 26:22	60:24 71:22	<b>pasture</b> 11:10	14:21 15:2,5
<b>oh</b> 43:5 44:7	54:1,8,15	72:16	12:5 15:7	15:14,17 16:2
46:24 51:18	<b>opportunity</b>	<b>page</b> 8:18 23:15	<b>Paula</b> 1:12 78:4	16:7,12,13,16
56:3 72:21	25:8	35:11,15,18	78:14	16:18,24 17:4
<b>okay</b> 6:2 12:24	<b>opposing</b> 19:20	51:20 52:1,4,8	<b>pause</b> 19:15	17:7,10,12,23
15:13 16:12	<b>order</b> 41:5 68:5	53:4,14,18,20	<b>pay</b> 56:5 57:12	18:4,9,10,11
18:20 19:11	<b>orderly</b> 4:13	53:21 58:6	57:13 64:17	18:15,17,21
22:1 24:17	<b>orientation</b>	59:12 60:6,17	69:19	19:3,8,12,16
26:4 27:23	35:16 36:5	62:5 67:22,23	<b>paying</b> 64:12	19:24 20:3,7,8
28:3,9 32:22	<b>oriented</b> 52:1	68:4,4,6,8 69:5	<b>pen</b> 51:17	20:11,12,15,24
34:3,15 35:14	<b>orients</b> 52:8	71:23	<b>people</b> 12:12	35:16,23 37:6
35:20,22 36:12	<b>original</b> 60:15	<b>pages</b> 52:22	27:8 29:5	38:1,2,4,5,13
37:15,22 38:15	<b>originally</b> 10:13	59:13 60:8	30:10 31:5	38:14,21,23
39:23 40:11	<b>originals</b> 59:20	72:2	42:24 50:9	40:12,13 44:2
42:16 44:8	<b>origins</b> 14:20	<b>paid</b> 42:4 66:5	64:3,13 66:14	44:8 45:9
		69:23,24 70:8		

52:11 60:4,4,5 60:11,13,16,23 61:12 <b>photographs</b> 9:19 11:2,6,19 11:24 12:12 16:4 20:4,10 21:4 37:3,15 37:19 40:16 44:18,24 45:14 59:15,21 60:9 62:6,9 65:22 65:23 71:7,19 71:22 72:3,12 74:16 <b>photos</b> 61:20 72:19 <b>phrase</b> 41:10 68:10 <b>phrased</b> 38:8 <b>physically</b> 72:17 <b>picked</b> 56:22 <b>picture</b> 10:9 19:6 <b>pictures</b> 59:7,11 <b>piece</b> 16:18 17:15 19:22 20:21 31:13,15 37:22 38:3,6 39:6 64:17 <b>pieces</b> 17:13 18:5 38:5,19 38:23 <b>pile</b> 61:17,18 <b>pipe</b> 17:15,16 <b>place</b> 19:20 34:2 36:10 44:19 60:22 64:15 65:1,2 <b>placed</b> 11:13 13:11 <b>places</b> 31:11 59:7 <b>plastic</b> 11:14 14:9,24,24	15:9 16:18 <b>play</b> 32:14 <b>please</b> 4:19 6:6 6:17 8:18 11:2 11:16 <b>plug</b> 62:17 <b>plus</b> 64:2,7 <b>point</b> 19:9 21:24 31:24 34:11 39:2 43:20 47:14 57:7 74:1 <b>pointed</b> 39:11 39:15,17 <b>pole</b> 9:9,11 10:4 36:4,6 52:14 <b>police</b> 56:6,7 <b>policies</b> 52:24 <b>policy</b> 22:23 23:2,23 43:11 43:13 53:9,18 54:15 <b>pollution</b> 1:1 2:2 4:10 25:21,23 40:18 <b>possibly</b> 12:20 20:17 <b>posted</b> 77:10 <b>posts</b> 11:14 <b>pound</b> 57:1,2,5 <b>power</b> 62:18 <b>preliminary</b> 5:2 <b>premise</b> 62:8 <b>premises</b> 22:18 40:23 41:2,19 41:23 42:4,8 42:12,17 43:3 45:2 51:22 52:12 54:14 62:7,10 64:21 73:23 <b>present</b> 2:1 4:6 36:13 41:13 42:17 46:7,7 48:12	<b>pressed</b> 28:4 30:7 <b>pressure</b> 66:11 <b>pretty</b> 47:23 64:1 65:12 <b>previous</b> 11:6 20:4 29:10 34:10 75:19 <b>price</b> 63:17 <b>prior</b> 8:5 26:16 26:19 44:7 47:21 61:22 <b>probably</b> 18:8 25:18 27:12 29:18 50:13 <b>problem</b> 48:1 71:18,19,21 <b>problems</b> 29:3 <b>procedural</b> 4:17 77:14 <b>procedure</b> 25:1 43:18,19 <b>procedures</b> 43:15 <b>proceed</b> 12:21 55:17 <b>Proceeding</b> 14:14 <b>proceedings</b> 1:10 4:14 41:21 77:17 <b>process</b> 31:24 32:18 34:19,22 <b>processed</b> 14:15 <b>profession</b> 50:7 50:8,15 <b>professional</b> 26:8 <b>progressed</b> 31:10 <b>proof</b> 72:7,8,19 <b>properly</b> 33:24 <b>properties</b> 72:10 <b>property</b> 5:13 5:20 7:21,24	8:3,9,23 9:1,3 9:4,8,8,10,11 9:14 10:1 11:10 13:16 21:6 26:16 27:22 29:23,24 30:3,3,5,6,13 30:16,22 31:7 31:10,13,15,17 32:24 33:2,11 34:8,24 35:12 36:9,14 41:5 41:14 44:11,20 44:21 45:3,10 47:3,4,10,14 47:17 50:20,20 59:8,9,9 61:1,2 61:6 62:11 63:6,9 64:17 65:4,14 71:12 72:11 73:18 74:2 76:3,14 76:17 <b>Prosecuting</b> 25:17 <b>protection</b> 1:3 4:9,22 6:20,21 7:3 41:4,7 <b>prove</b> 72:10 <b>proved</b> 70:22 <b>proven</b> 5:22 <b>public</b> 4:5 24:11 24:14 77:11,12 <b>purchasing</b> 30:5 <b>purpose</b> 4:12 31:1,5 <b>purposes</b> 31:16 <b>pursuant</b> 4:15 4:16 23:24 <b>put</b> 51:14 62:18 65:1,16 <b>PVC</b> 17:15,16	75:11 <b>questioning</b> 63:3 <b>questions</b> 21:24 46:13 67:2 68:14 71:2 72:24 75:9,11 <b>quick</b> 52:21 <b>quite</b> 34:6 76:8
<b>R</b>				
<b>raggedy</b> 64:17 <b>ran</b> 54:23 <b>range</b> 50:14 <b>ratifies</b> 43:9 <b>re-call</b> 72:23 <b>re-called</b> 73:8 <b>re-use</b> 64:24 <b>read</b> 52:5 <b>reading</b> 43:18 54:12 <b>ready</b> 12:23 <b>real</b> 39:5 <b>really</b> 40:3 <b>reason</b> 26:4 34:4 41:1 42:22 63:5 <b>reasonable</b> 41:5 <b>reasonably</b> 21:16 <b>recall</b> 22:17 23:12 24:5 27:15,16,19 28:8,14 29:10 36:23 43:18 47:9,20,24 <b>receipt</b> 23:1 <b>receive</b> 22:12,14 22:21 25:3 75:3 <b>received</b> 22:18 24:18 25:5 34:21,22 47:2 47:21 <b>recognize</b> 8:13				
<b>Q</b>				
<b>question</b> 31:23				

35:11,15 <b>recollection</b> 26:11 <b>recommendati...</b> 32:23 <b>recommendati...</b> 32:19,20 <b>record</b> 4:14,19 5:3 49:10 62:20,22 63:2 <b>records</b> 21:16 74:23 <b>recycle</b> 63:9 64:21,22 65:24 <b>recycling</b> 56:18 56:21 <b>Redirect</b> 3:5,11 46:16 70:6 <b>reduce</b> 63:18 <b>refer</b> 32:11 35:9 37:7 44:1 60:3 68:11 69:10 75:5 <b>reference</b> 11:4 12:4 19:9 20:23 61:1 <b>referenced</b> 10:5 11:6,23 12:18 14:4 16:4 20:9 <b>referral</b> 25:15 33:19 <b>referred</b> 40:6 70:17 <b>referring</b> 24:23 44:1 59:16 60:15,23 71:10 <b>reflect</b> 53:23 <b>reflected</b> 21:17 <b>reflection</b> 17:5 18:18 <b>refrain</b> 56:15 <b>refuse</b> 13:6 14:1 14:8,19 15:11 15:16 16:16,20 <b>regarding</b> 24:4	55:16 65:15 73:17 <b>Regardless</b> 31:22 33:16,21 <b>region</b> 26:19 <b>Regional</b> 6:23 <b>regions</b> 26:18 <b>regular</b> 21:13,15 <b>regulation</b> 24:1 <b>regulations</b> 43:16 <b>reimbursed</b> 65:9 <b>reinforcing</b> 17:22 <b>related</b> 78:9 <b>relation</b> 65:6 <b>relevant</b> 71:11 71:12 72:5 <b>relied</b> 34:19 <b>remained</b> 10:20 <b>remains</b> 14:16 <b>remedy</b> 58:24 <b>remember</b> 55:4 <b>removed</b> 14:14 33:24 <b>rentals</b> 64:22 <b>renter</b> 30:4 <b>report</b> 8:16,21 9:20 21:5,8 32:1,4,10,16 33:13 43:24 44:6 72:15 74:14,16,19,21 <b>reporter</b> 1:13 6:17 48:19 78:5 <b>reports</b> 21:10,12 46:20 <b>representative</b> 66:18 <b>request</b> 42:19,22 52:23 53:8,17 <b>requested</b> 25:24 <b>require</b> 41:14 <b>required</b> 25:6	<b>reserve</b> 77:4 <b>residence</b> 29:19 29:21 30:7,12 34:7 <b>resolution</b> 53:24 54:7 74:5 <b>resolve</b> 31:18 56:10,13 58:13 58:16 <b>resolved</b> 33:21 33:23 <b>respect</b> 76:14 <b>Respondent</b> 1:7 2:11 3:7 4:8 49:3 73:8 <b>Respondent's</b> 35:10 72:16,18 77:15 <b>response</b> 53:8 71:13 <b>rest</b> 57:21 71:22 <b>restitution</b> 69:9 <b>restricted</b> 47:18 <b>result</b> 7:5 28:10 30:2 32:6,11 70:17 <b>resulted</b> 24:23 <b>resulting</b> 5:10 <b>returned</b> 75:17 <b>review</b> 29:24 30:9 34:24 47:3,6,12 <b>Reynolds</b> 27:6 58:4,24 68:1 68:23 <b>right</b> 5:6 10:18 12:15 13:7,20 14:3,18 15:9 15:19 16:19 18:7,15 19:23 20:22 30:17 33:5,11 35:24 36:9,10 38:4 38:14,22 39:7 39:23 40:4	41:4 50:11 52:4,7,13,18 53:19,22 54:6 55:6,7,8,11,13 55:14 56:12 57:9 58:3,11 59:5,8,14 60:1 60:10 61:14 62:12,16 65:20 66:7 70:1,15 70:19,21 <b>rights</b> 5:24 <b>river</b> 46:1,2 <b>road</b> 9:5 60:2,22 76:5,11 <b>rock</b> 17:21 37:23 <b>role</b> 32:15 <b>rotated</b> 52:5 <b>round</b> 46:8 59:5 64:1 <b>rule</b> 43:22 <b>rules</b> 4:15,17 77:14 <b>run</b> 11:15 <b>running</b> 12:15 36:1 64:3 <b>runs</b> 9:13 11:7 17:23 <b>rusted</b> 13:13 20:19 <b>Ryan</b> 2:5 3:3,5 3:10,15 4:20 4:20 5:4,8 6:4 6:15 21:23 44:5 46:14,17 48:5,13 67:3,6 70:2 71:3,6,18 71:23 72:5,20 73:3 75:10,16 76:20 77:2,4 77:19 <b>Rye</b> 50:4	<b>S</b> 12:14 <b>sampling</b> 7:18 7:19 <b>save</b> 63:9 <b>saw</b> 21:5 30:23 30:24,24,24 32:16 <b>saying</b> 57:3 64:15 74:9 <b>says</b> 53:21 56:6 67:24 68:8,15 69:8 <b>scattered</b> 13:6 14:1,18 16:17 16:21 <b>schedule</b> 67:9 <b>scheduled</b> 7:5 <b>scheduling</b> 22:23 <b>Scott</b> 51:11 <b>scrap</b> 15:22 56:18,18,20 <b>search</b> 26:10 41:15 42:15 43:3,7 <b>second</b> 35:14 52:4 60:5,7,16 62:17 <b>section</b> 6:22 25:12,14 41:3 43:10 75:17 77:13 <b>Sections</b> 4:8,16 <b>see</b> 10:3,4,5,16 11:7,18,20,23 12:5,8 13:4,7 13:21 14:1,4,7 14:12,15,18 15:16,20,22 16:21 17:4,7 17:11,11,13,15 18:16,24 20:3 20:16 23:12,17 29:3 38:1,3,5 38:12,15,17,18
--	--	---	---	--



39:5,5,8,8,9,9 39:10 40:3,4 45:8 56:8 59:10 67:22 <b>seeing</b> 24:6 <b>seen</b> 40:12,21 45:1,5 <b>sell</b> 57:1,2 63:10 <b>send</b> 24:19,22 32:3 34:18 <b>sends</b> 25:2,5 74:8 <b>sent</b> 25:7 32:1 33:14 74:8 75:1,6,6 <b>separate</b> 72:17 <b>separately</b> 72:20 <b>September</b> 58:6 69:20 77:10,12 77:15 <b>service</b> 50:18 <b>serviceman</b> 50:3 <b>set</b> 55:15 <b>sets</b> 53:7 <b>seven</b> 14:5 <b>seventeen</b> 57:2,5 <b>seventy</b> 49:15 <b>shadow</b> 19:8 <b>shadows</b> 68:24 <b>shaped</b> 12:14 20:18 <b>Short</b> 19:15 <b>shorthand</b> 1:13 78:4 <b>show</b> 5:9 9:23 18:13 19:10 37:3 60:19 61:15 75:5 <b>showing</b> 52:12 52:24 <b>shown</b> 46:20 61:22 62:2 <b>shows</b> 16:16 19:18 60:20 61:16,16	<b>side</b> 9:9 10:18 12:3,8,15,16 14:7 15:22 18:16 19:24 20:15 35:24 38:4,14,22 40:1 <b>significant</b> 37:11 <b>similar</b> 18:9 45:16,23 47:22 74:16 <b>simply</b> 19:20 29:14 <b>sink</b> 14:2 <b>sir</b> 50:17 51:15 52:3 54:3 59:17 60:18 62:4 66:4 70:10,12 <b>sit</b> 24:3 <b>site</b> 4:9 9:2 48:2 61:24 <b>sites</b> 56:23 76:18 <b>sits</b> 9:12 <b>sitting</b> 25:23 <b>situation</b> 33:16 33:16 <b>six</b> 12:22 18:6 <b>size</b> 13:12 16:1,3 18:4 19:4,5 20:23 <b>sketch</b> 9:2 <b>slightly</b> 17:2 20:19,22 37:21 <b>slope</b> 45:12 <b>slow</b> 67:9 <b>small</b> 13:21 17:5 <b>smaller</b> 17:24 <b>sneeze</b> 19:15 <b>somebody</b> 66:16 <b>son</b> 50:3 <b>sorry</b> 45:22 53:11 72:21 74:6	<b>sort</b> 13:8 51:14 74:24 <b>sorts</b> 10:11 <b>Sound</b> 55:7 <b>sounds</b> 55:8 <b>south</b> 9:9 10:3 11:18 13:2,24 17:2 18:22 20:13 <b>southwest</b> 16:14 <b>speak</b> 31:8 <b>speaking</b> 31:15 <b>Special</b> 4:20 <b>specialist</b> 6:20 7:3 <b>specific</b> 47:24 <b>spell</b> 6:16 <b>spot</b> 45:18 <b>spring</b> 36:15 37:1 <b>Springfield</b> 2:3 2:7 <b>springs</b> 12:9,11 20:16,18,22 <b>square</b> 16:5 18:7 <b>standing</b> 5:11 15:4,6 17:1 <b>standpoint</b> 33:20 <b>start</b> 51:20 <b>starting</b> 9:22 36:17 37:1 <b>state</b> 1:13,16 6:16 36:23 49:10 78:1,5 <b>state's</b> 37:18 44:1 56:8 58:13,17 59:1 <b>statement</b> 5:7,17 77:3,7 <b>States</b> 58:7 <b>statute</b> 23:24 24:21 <b>sticking</b> 16:20 <b>stolen</b> 65:3	<b>stopped</b> 57:16 <b>stored</b> 64:20 <b>story</b> 28:6 <b>stove</b> 14:13 <b>straight</b> 12:18 16:10 64:10 <b>stream</b> 45:24 46:2 <b>street</b> 1:15 5:13 8:1 9:2,3 31:11 31:13 59:8,9 60:1 61:7,9,10 61:13 62:10,14 72:11 76:6,7,8 <b>structure</b> 31:11 34:7 <b>structures</b> 13:20 14:17 <b>stuff</b> 65:10 <b>stupid</b> 65:12 <b>subject</b> 50:20 71:11 72:6,11 75:23 <b>successful</b> 58:18 58:19 <b>suggested</b> 58:24 <b>supplied</b> 74:20 <b>supply</b> 62:18 <b>suppose</b> 20:16 <b>supposed</b> 22:24 <b>sure</b> 13:8 15:1 27:13 29:22 35:4 36:6 39:4 43:17 62:19 <b>surprised</b> 67:10 <b>sustained</b> 69:12 <b>swear</b> 48:20 <b>swoop</b> 65:18 <b>sworn</b> 6:10 49:4 73:9 <b>systems</b> 31:11	61:19 64:15 65:1,19 72:7 <b>taken</b> 1:11 9:24 10:1 11:3,18 12:24 13:1,15 13:24 14:11 15:3,6,14 16:13,24 17:2 18:11,21 19:16 19:20 20:13 32:20 36:20 45:1,10,14 55:23 65:6 71:9 <b>takes</b> 65:12 <b>talk</b> 27:8 59:6 60:11,12 <b>talking</b> 68:22 <b>tarp</b> 14:3 67:19 67:20 <b>taught</b> 30:4 <b>taxes</b> 64:18 <b>taxpayer</b> 55:24 <b>Tazewell</b> 78:5 <b>telephone</b> 23:11 <b>tell</b> 8:12 9:23 15:11 19:7 28:12,18,21 30:23 45:17 66:16 73:21 74:14 <b>term</b> 30:18,20 <b>terms</b> 38:1 <b>testified</b> 6:11 49:5 73:10 <b>testify</b> 54:17 66:19 <b>testimony</b> 37:20 48:17 71:8,19 <b>thank</b> 5:18 22:3 25:24 46:13 48:5,8,10 63:4 72:9 76:2,20 76:23 77:17,19 <b>theft</b> 65:8,15
--	---	--	--	--

<b>thefts</b> 65:8	55:9,16,21,22	67:8	<b>understand</b> 71:8	33:23 42:3,3
<b>thereof</b> 21:17	58:14 64:2	<b>true</b> 78:7	<b>understanding</b>	43:4 46:20,23
75:3	67:11	<b>truthful</b> 66:15	24:13 32:10	66:5,23 73:24
<b>they'd</b> 10:11	<b>Title</b> 41:7	66:19	41:9 43:9	74:10 75:18,19
48:12	<b>today</b> 5:9 8:5	<b>try</b> 18:18 21:9	<b>units</b> 11:21	<b>violent</b> 28:13
<b>thieves</b> 65:11	24:3 25:1	22:20 29:4	<b>unknown</b> 31:7	<b>virtually</b> 15:4
<b>thing</b> 35:9 37:19	40:21,22 75:24	30:10 31:4	<b>unmelted</b> 44:9	<b>visible</b> 10:23
47:23 65:8	<b>told</b> 28:6,15,20	33:9 34:15	<b>unpermitted</b> 7:7	36:6 38:9,22
75:2	43:21 64:14	55:1,1 68:3	<b>upper</b> 12:4,8	38:24 44:2
<b>things</b> 30:17,18	<b>Tompkins</b> 1:15	<b>trying</b> 19:8 27:3	13:7,20 14:3	62:13
31:4,9 33:22	<b>ton</b> 63:20 64:9	27:19 40:9	14:17 15:10	<b>visited</b> 22:18
34:13 50:8	<b>top</b> 10:8 11:18	51:7 53:11	17:14 20:2,5	<b>volume</b> 63:18,18
55:18 63:9	17:3,10,24	63:14 69:1	37:10	<b>VS</b> 1:5
65:17 66:13	35:18 37:10	76:9	<b>upside</b> 35:19	
<b>think</b> 7:8 14:23	39:7 52:1,8	<b>tub</b> 16:19	<b>use</b> 5:19 27:24	<hr/> <b>W</b> <hr/>
26:24 27:3	60:5,16 68:1	<b>turn</b> 35:14 67:21	30:18 41:20	<b>W</b> 1:15
35:7 36:3 39:5	<b>town</b> 56:8	<b>turned</b> 56:18	57:8 58:12,20	<b>walk</b> 76:5
46:4 50:24	<b>track</b> 30:8 31:12	<b>twelve</b> 64:9	63:6,22 65:2	<b>walked</b> 17:3
55:3 59:7,10	33:4 34:13	<b>twenty</b> 29:5	<b>usually</b> 56:23	19:13,17
63:11 64:8	<b>trained</b> 7:17,17	46:18 61:11	65:12	<b>wall</b> 13:17
67:23 69:5	7:18	62:1 64:11		<b>want</b> 35:2 37:15
71:24 72:1,2	<b>training</b> 7:14,20	71:16,17	<hr/> <b>V</b> <hr/>	54:24,24 55:15
<b>third</b> 40:2	43:20,21	<b>Twenty-four</b> 7:1	<b>V</b> 2:9	56:1 59:22,23
<b>thirty</b> 22:24	<b>traipse</b> 65:21	<b>two</b> 9:5 10:5,9	<b>Valley</b> 59:3	69:8
23:6 47:11,15	<b>transcript</b> 1:10	10:14,15,22	63:15,17 64:7	<b>wanted</b> 51:9
64:11 71:15	77:9	11:6,23,24	<b>various</b> 14:7	65:19 70:17
<b>thought</b> 39:12	<b>transcription</b>	18:6 24:7	33:14 53:1	<b>warrant</b> 41:15
<b>thousand</b> 69:12	78:7	27:21 37:19	<b>vegetation</b> 16:21	42:15 43:7
<b>three</b> 11:3 17:13	<b>treated</b> 51:11	38:21,24 40:1	36:10,12,24	<b>wash</b> 16:19
21:3 38:23	<b>trees</b> 9:17 36:9	59:9,13 60:8	45:9 52:12,16	<b>wasn't</b> 51:7
44:8 57:18	36:17,21 37:11	62:5 64:10,11	<b>vendetta</b> 64:19	57:15 58:19
69:24	<b>trespassing</b>	65:12 69:12	<b>ventilation</b> 20:6	67:14,16 69:13
<b>throw</b> 57:6	57:20	72:2,24 76:7	<b>verification</b> 25:3	<b>waste</b> 5:11 7:16
<b>time</b> 4:18 21:19	<b>trial</b> 68:17	76:11	<b>versus</b> 4:3	10:6 11:12
30:15 33:6	<b>tried</b> 34:12	<b>type</b> 10:17 15:1	<b>vicinity</b> 31:8	12:10 14:18
36:19 41:5	54:15 56:10	21:2	<b>view</b> 19:21	18:14,16 20:3
42:15 43:6	58:12,16 65:16	<b>types</b> 14:7	51:21 70:14	27:17 33:23
46:1,10 54:15	<b>trip</b> 59:6 64:1	<b>typically</b> 42:19	<b>violated</b> 4:8	38:12,23
55:15,20,22	<b>trough</b> 13:7		<b>violation</b> 5:24	<b>water</b> 17:4,5,11
61:8,10 63:10	<b>truck</b> 28:17 51:8	<hr/> <b>U</b> <hr/>	40:17 66:9	18:17,19 38:13
64:6 70:11	54:23 55:18	<b>Uh-huh</b> 52:15	74:6	40:10,18 46:7
76:19 77:8,16	57:16 63:23	58:5 69:7	<b>violations</b> 5:15	46:11
<b>times</b> 32:22 33:8	67:18 69:9,10	<b>uncommon</b> 31:6	5:21 24:20	<b>waters</b> 5:11
41:16	69:11 70:16	<b>underneath</b>	25:9 26:2,6	<b>wavy</b> 20:18
<b>tipping</b> 54:2,9	<b>Trucking</b> 50:11	18:16 38:12	30:23 33:14,21	<b>way</b> 5:20 30:20

61:7 63:19 68:13 72:10 <b>we'll</b> 4:1 51:20 52:22 72:14,17 <b>we're</b> 17:1,1 24:23,24 25:22 60:15 <b>We've</b> 22:9 <b>web</b> 23:15 <b>Webb</b> 1:18 2:2 4:1,2 5:1,6,16 6:2,5 21:21 22:1 39:3 46:14 48:6,8 48:11,14,18 59:19 62:19 63:1 67:3 70:4 71:20 72:4,14 73:1,4 75:13 76:21,23 77:2 77:6,9 <b>website</b> 77:11 <b>weeds</b> 65:21 <b>week</b> 22:21 23:6 <b>weight</b> 51:12 <b>went</b> 22:18 28:19,20 33:3 54:13 56:2,8 66:10 <b>west</b> 9:11 10:2,2 11:4 13:15 14:11 15:3 <b>wet</b> 45:18 <b>white</b> 11:20 12:20 13:5,22 14:13 15:9 17:15 <b>wide</b> 18:8 <b>wind</b> 29:16 <b>wire</b> 10:5,9,21 10:22 11:5,11 11:23 12:2,5,8 12:17 15:17,20 16:2 <b>wires</b> 12:14	17:22 <b>witness</b> 3:1 6:3 48:10,15,20 <b>WITNESSES</b> 3:7 <b>wonder</b> 66:15 <b>wood</b> 15:22 20:1 <b>word</b> 52:5 <b>words</b> 35:19 <b>work</b> 30:16,18 49:24 <b>worked</b> 41:12 <b>works</b> 25:2 33:12 <b>worth</b> 69:13 <b>wouldn't</b> 37:12 42:13 <b>wreck</b> 70:24 <b>write</b> 33:9 <b>writing</b> 23:11 30:11 <b>written</b> 34:13 43:15,18,19 <b>wrong</b> 38:8 66:21  <b>X</b>  <b>Y</b>  <b>yardage</b> 63:16 <b>Yeah</b> 35:17 36:7 39:13,24 40:9 43:23 66:13 69:17 <b>year</b> 27:9,21 36:17,19 46:7 55:10 64:18 <b>years</b> 7:1,9 27:11,12 29:5 47:11,15 49:15 49:19 50:14 53:2 55:5 61:11,24 62:1 65:13 71:15,16 71:17	<b>yellow</b> 14:22,24 <b>York</b> 50:4 <b>youngest</b> 50:2  <b>Z</b>  <b>0</b>  <b>1</b>  1 8:12 21:19,21 37:18 44:1 72:15,16,18 74:17 10 4:5 15:2,17 10:00 1:15 101.600 4:16 101.628 77:13 101.632 4:17 1021 2:3 10th 77:12 11 15:14 16:2 1127 73:20 12 16:12,13 37:6 13 16:24 18:4,10 37:16 38:2,5,9 38:16,17,21,24 39:14 40:5,13 44:24 45:14 13-60 1:5 4:3 14 18:9,11,15 37:16 38:1,4 38:10,11,16,17 38:18,23 39:12 40:4,13 44:24 45:14 15 18:21 15th 53:24 54:14 16 19:12,16 20:8 16th 61:20 17 20:12 65:23 172 53:21 17th 5:9 184 49:13 1999 7:13  <b>2</b>	<b>2,800</b> 7:10 <b>2007</b> 53:24 54:14,19 55:12 <b>2011</b> 27:20 29:13 34:8,11 47:7 55:7,13 58:2,7 66:2 69:20 73:17 74:5,13 75:17 <b>2013</b> 5:9 8:17 21:6 36:14,24 47:21 75:18,23 <b>2014</b> 1:14 53:5 53:15 71:9 <b>2021</b> 2:6 21 4:8 <b>217.524.8509</b> 2:4 <b>217.782.5544</b> 2:7 22 3:4 22nd 53:5,15 23-year 50:3 23rd 77:15 24 7:9 27th 1:14 4:4  <b>3</b>  3 44:2 31 25:12,14 31.131 24:21 31st 58:2 35 41:7  <b>4</b>  4 11:17 20:7 4-D 41:3,10,17 43:10 40 7:16 46 3:5 49 3:9  <b>5</b>  5 2:10 50/50 29:18 46:24	<b>55</b> 1:15  <b>6</b>  6 3:3 12:24 20:10 61413 2:10 62794 2:7 62794-9274 2:3 67 3:10  <b>7</b>  7 13:14,15 70 3:11 73 3:14 75 3:15 50:24 7th 8:16 21:6 47:21 77:16  <b>8</b>  8 9:5 13:23 20:10 76:5 84-002965 1:12 78:14  <b>9</b>  9 14:10,21 15:5 69:20 911 31:10 9th 58:7 77:10
--	--	--	--	--