

ORIGINAL

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)

Complainant,)

vs.)

MARK A. LEWIS,)

Respondent.)

AC 09-41

(IEPA No. 65-09-AC)

(Administrative Citation)

The following is the transcript of a hearing held in the above-captioned matter, taken stenographically by Kimberly Gammon, CSR, RPR, a notary public within and for the County of Clinton and State of Illinois, before Carol Webb, Hearing Officer, at the City Hall, Flora, Illinois, on the 23rd day of October, A.D., 2013, commencing at 10:30 a.m.

1 PRESENT:

2 HEARING TAKEN BEFORE:
3 ILLINOIS POLLUTION CONTROL BOARD
4 1021 North Grand Avenue East
5 Springfield, Illinois 62794-9274
6 (217)524-8509
7 BY: CAROL WEBB, Hearing Officer

6 APPEARANCES:

7 MICHELLE M. RYAN
8 Special Assistant Attorney General
9 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
10 1021 North Grand Avenue
11 Springfield, Illinois 62794-9276
12 (217)782-5544
13 On Behalf of the Complainant.

11 MARK A. LEWIS, Pro Se

12 ALSO PRESENT:

13 Jill Lomas

14

15 I N D E X

16	WITNESS FOR THE COMPLAINANT:	Page
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18	WITNESS FOR THE RESPONDENT:	
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23	COMPLAINANT'S EXHIBIT:	Identified	Admitted
	Exhibit 1-Inspection Report... 7		12
24	(Retained by attorney)		

1 HEARING OFFICER WEBB: Good morning, my name is
2 Carol Webb. This is the hearing for AC 09-41,
3 IEPA versus Mark Lewis. It is October 23 and we
4 are beginning at 10:30 a.m. I will note for the
5 record that there is one member of the public
6 present, Mr. Lewis has his fiance with him who may
7 or may not choose to make a public comment later on.

8 In this case, the agency alleges that
9 Mr. Lewis violated section 21 (p) (1) of the Act
10 by causing or allowing the open dumping of waste
11 at his site in Clay County. The agency further
12 alleges that this is a second violation and asked
13 the board to impose a \$3,000 civil penalty. The
14 Pollution Control Board members will make the
15 final decision in this case. My purpose is to
16 conduct the hearing in a neutral and orderly
17 manner so that we have a clear record of the
18 proceedings.

19 This hearing was noticed pursuant to the
20 Act in the board's rules and will be conducted
21 pursuant to Sections 101.600 through 101.632 of
22 the board's procedural rules. At this time I will
23 ask the parties to please make their appearances
24 on the record.

1 MS. RYAN: Michelle Ryan, Special
2 Assistant Attorney General for the Illinois EPA.
3 I have my formal appearance here for the board and
4 a copy for you.

5 HEARING OFFICER WEBB: Thank you.

6 MS. RYAN: And I've given copies to
7 everyone else already.

8 HEARING OFFICER WEBB: And Mr. Mark
9 Lewis is here. You are representing yourself, is
10 that correct, Mr. Lewis?

11 MR. LEWIS: Yes.

12 HEARING OFFICER WEBB: Ms. Ryan, would
13 you like to make any opening statement?

14 MS. RYAN: Yes, we believe the evidence
15 today will show that on April 1, 2009, open
16 dumping resulting in litter was observed at a
17 property in Bunnyville Drive near Clay City in
18 Clay County, Illinois, and that this was a second
19 or subsequent violation of 21 {p} (1) of the Act
20 and as such a \$3,000 penalty is appropriate in
21 this case.

22 HEARING OFFICER WEBB: Mr. Lewis, would
23 you like to make any opening statement or would
24 you just like to wait until it's time to present

1 your case?

2 MR. LEWIS: I think I will just wait.
3 Is it to late to ask for time to get an attorney?

4 HEARING OFFICER WEBB: It is, it is,
5 yeah. Ms. Ryan, you may call your witness.

6 MS. RYAN: I call Garrison Gross.

7 (Witness was first duly sworn and
8 deposed as follows:)

9

10 DIRECT EXAMINATION

11 By Ms. Ryan

12 Q. Can you state your name and spell
13 your last name for the court reporter.

14 A. Garrison Gross, G-r-o-s-s.

15 Q. What is your job?

16 A. I am an environmental protection
17 specialist and inspector for the Illinois EPA
18 Bureau of Land out of the Marion region.

19 Q. How long have you been an inspector
20 for Bureau of Land?

21 A. Nine years.

22 Q. What are your duties as a field
23 inspector?

24 A. I receive complaints, we go out and

1 do inspections at landfills, tire storage
2 facilities, RCRA hazardous waste sites, private
3 properties, landfills, farms.

4 Q. Approximately how many inspections
5 do you conduct each year?

6 A. Somewhere between 60 and 80.

7 Q. What is your educational background?

8 A. I have a bachelor's degree from
9 Murray State University in occupational and safety
10 health engineering and I have a bachelor's degree
11 from Eastern Illinois University in Charleston
12 with an environmental biology background and
13 zoology minor.

14 Q. Have you had any additional training
15 following your college degrees?

16 A. Yes, the EPA has sent me to numerous
17 trainings through MEEA, Midwest Environmental
18 Enforcement Association. I have been in U.S. EPA
19 training courses.

20 Q. Are you familiar with the property
21 on Bunnyville Drive near Clay City known as the
22 Clay City Lewis, Mark A. property?

23 A. Yes.

24 Q. Where is that property located?

1 A. Few miles southeast of Clay City on
2 the east end of Bunnyville Drive.

3 Q. Who owns that property?

4 A. Mark Lewis.

5 Q. How many inspections have you
6 conducted at that property?

7 A. I believe about five.

8 Q. I am going to show you what I marked
9 as Exhibit 1. Can you tell me do you recognize
10 that document?

11 A. I do.

12 Q. What is it?

13 A. It's an inspection report for the
14 April 1, 2009, inspection of his site.

15 Q. Can you please page through that for
16 me?

17 A. Okay.

18 Q. Is Exhibit 1 a fair, accurate and
19 complete copy of your report from April 1, 2009?

20 A. Yes.

21 Q. Can you describe the property
22 generally?

23 A. It's in a rural setting as I said on
24 the east end of Bunnyville Drive, maybe one other

1 home nearby. There is two homes on the property,
2 there is several barns and sheds, I don't know how
3 many acres the property has.

4 Q. Who took the photographs that are
5 attached to Exhibit 1?

6 A. I did.

7 Q. What do they show starting with
8 photograph No. 1?

9 A. That is a waste vehicle with no
10 valid license plate, you want me to continue on
11 with No. 2?

12 Q. Continue on with the photos as soon
13 as you are done with those.

14 A. No. 2 is the second residence, it's
15 on the site, I believe it was being rented to
16 someone, I don't know if it was rented at this
17 time or not but it had been rented in the past and
18 there is various white goods which are appliances
19 that are scattered around the front yard, there is
20 some other piles of household waste on the ground.

21 Q. Can you describe more specifically
22 the white goods in that photograph or is that not
23 possible?

24 A. There appears to be a microwave,

1 maybe a refrigerator or freezer unit, I don't
2 know -- I can't really see what the other stuff is
3 over in the pile. No. 3 is a waste vehicle and
4 that vehicle was observed on the site in February
5 2006 in relatively the same condition and
6 location. No. 4 is another waste vehicle, it was
7 also observed at the site in 2006 in a similar
8 location and similar conditions.

9 Q. Can you describe the situation with
10 the tires on that vehicle?

11 A. The tires are bogged down in the
12 mud, it appears it hasn't been driven or moved
13 from that location quite some time, it's also got
14 vines and briar looking bushes growing up around
15 it, it doesn't have a trunk on it. Photograph
16 No. 5 is another waste vehicle, the windows are
17 busted out of the side of it, it was observed at
18 this same location in 2006. Photograph No. 6 is a
19 waste vehicle also observed at that location 2006,
20 this particular vehicle has no hood, has no motor,
21 has no wheels, it's just sitting on the ground.
22 Photograph No. 7 specifies the two pickup trucks
23 as waste vehicles, those were also located in a
24 similar condition and location in 2006.

1 Q. The pickup trucks would be the two
2 vehicles in the very center of the photograph, the
3 brownish one towards the front and the white one
4 behind?

5 A. Yes, the brown and white pickup
6 truck. Photograph No. 8 is of a waste vehicle,
7 this vehicle does appear to be a newer model
8 vehicle but it was observed in the same location
9 in 2006 and the window was broken out of it, it's
10 also kind of bogged down in the ground or the
11 tires are flat, one of the two. Photograph No. 9
12 another waste vehicle, the trunk is open, the
13 car's kind of bogged down in the mud, it was
14 observed in a similar condition in 2006.
15 Photograph No. 10 is of a waste vehicle, also
16 similar -- it's in a similar condition as it was
17 before and observed in 2006. Photograph No. 11 is
18 of another waste vehicle, it's missing the hood,
19 there is a battery, looks like a car battery out
20 in front of it, it was observed similar condition
21 back in 2006. Photograph No. 12 is of a waste
22 vehicle, it appears also to be bogged down in the
23 mud, there is a car battery out in front of with
24 the hood open and No. 13 is of a waste vehicle on

1 the property.

2 Q. Can you describe what appears to be
3 on the hood of that vehicle?

4 A. Appears to be an orange drop cord
5 and one of the things that I look at when I try to
6 determine if a vehicle is a waste vehicle or not
7 is whether or not it is currently licensed which
8 would be in use, then if it's usable and if it's
9 capable of being used in its current condition and
10 these vehicles did not appear to be useful in
11 their current condition or if they are protected
12 for future use which they were not and that would
13 be in a building.

14 Q. Did any of these vehicle that you
15 mentioned in the photographs have a license plate
16 on them?

17 A. Not based on looking at the
18 photographs.

19 Q. At several points in the photographs
20 you described that the vehicle was in a similar
21 location and condition as to 2006 which would have
22 been three years prior to this inspection, what
23 was the purpose of noting that?

24 A. To show that they had not moved from

1 the location that they were at which would
2 indicate that they are not in use or usable in
3 their current condition.

4 Q. Do these photographs attached to
5 this inspection report accurately depict what you
6 saw at the property on April 1, 2009?

7 A. Yes.

8 Q. Approximately when was this report
9 generated?

10 A. Within a week or so of the date that
11 the inspection was conducted.

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

14 A. Yes.

15 Q. Is it the regular course of Illinois
16 EPA's business to make such records at or
17 reasonably after the event reflected there on?

18 A. Yes.

19 MS. RYAN: At this time I would move for
20 admission of Exhibit 1 into evidence.

21 HEARING OFFICER WEBB: Exhibit 1 is
22 admitted.

23 MS. RYAN: I have nothing further at
24 this point.

1 HEARING OFFICER WEBB: Mr. Lewis, you
2 have the right to cross-examine the witness about
3 anything he just said or you can just wait for
4 your personal testimony, it's up to you.

5 MR. LEWIS: I have a few questions.

6

7

CROSS EXAMINATION

8

By Mr. Lewis

9

Q. How many vehicles do you have?

10

A. In my home?

11

Q. Yes.

12

A. Two.

13

Q. Does that include a work car?

14

A. Work car stays at work.

15

16 Q. Do you park your vehicles inside a
garage every night?

17

A. Yes.

18

Q. Every night?

19

A. Yes, every night.

20

21 Q. Do you live in town or in the
country?

22

A. I live in town.

23

24 Q. Do all your neighbors do the same
thing?

1 A. Some park their vehicles out in the
2 front of their driveway, most of them park them in
3 the garage.

4 Q. But some do park them outside?

5 A. Yes.

6 Q. Perfectly okay to park a running
7 vehicle outside?

8 A. Yes.

9 MR. LEWIS: That is my question, thank
10 you.

11 HEARING OFFICER WEBB: Anything
12 further?

13 MS. RYAN: No, thank you.

14 HEARING OFFICER WEBB: Thank you,
15 Mr. Gross. Mr. Lewis, the court reporter will
16 swear you in and you may give your testimony.

17 (Witness first being duly sworn,
18 testified and deposed as follows:)

19 HEARING OFFICER WEBB: You may state
20 your case.

21 MR. LEWIS: I would like to just go back
22 through your evidence, what you guys refer to as
23 waste is money to me, I don't think we understand
24 each other on that. This is what I do, I fix

1 cars. Mine aren't numbered, I am sorry, I didn't
2 see it, this blue car you are looking at here is a
3 one year only aluminum block 4.6 motor that is
4 worth about \$1,500 to me. I haven't had the
5 opportunity to sell it yet, it's very rare. Boyd
6 Connington put one in a hot rod on TV, they're
7 that rare. Ford Lincolns used an aluminum block
8 engine for one year and that car has it. I had a
9 hard time finding that car. I gave \$700 for that
10 car.

11 The picture of the house in Exhibit
12 No. 2, that was in the middle of kicking out
13 someone that didn't pay the rent, they actually
14 had a meth lab in the upstairs, local sheriff
15 tuned me into it, we got them kicked out, he told
16 me himself, Lee Reichert, at the time to place the
17 stuff in the front yard, give them 30 days to get
18 it out and if they didn't come pick it up, put it
19 in a dumpster, that's what you're looking at,
20 you're looking at their belongings in a pile. If
21 you look there's their microwave, trash bag full
22 of clothes, the big white thing there was their
23 freezer, I did what the local sheriff told me to
24 do, that stuff's gone.

1 The white Monte Carlo exposure No. 3 it
2 says, it's a future project, I just haven't got to
3 it yet, it's actually a very nice car, rust free,
4 has new interior. I also purchased that car, I do
5 not remember the price. Exposure No. 4 is a '60
6 Impala, rust free. I traded a couple other cars
7 for it trying to cut down on my inventory, the
8 fenders, the rear-end, it's all worth money, I
9 just haven't had the opportunity to sell it yet.
10 The white Ford van was bought because it has these
11 same -- exposure No. 5, I am sorry, it was bought
12 because it has the same engine as my tow truck, I
13 have a tow truck, it's a spare end for my tow
14 truck, I couldn't think of any better place to
15 store it than inside the car. I take it out, I
16 put it in the shed, mice get in it, who knows, it
17 runs, you can start it and throw a battery in it
18 and fire it up, the rear end's out of the van, the
19 engine and transmission are both good.

20 The blue Ford truck, it was pointed out
21 that has no wheels or tires, that would be Exhibit
22 No. 6, it had wheels and tires when I got it, I
23 parted it out to that point. It might be -- it
24 might look like trash laying on the ground but to

1 me it's the alternate form of being green, I
2 didn't go buy me a part, I took a part someone
3 else was going to throw in a landfill and I used
4 the rear-end of a pickup truck, the front end, my
5 brother put in his truck, the windows are in a
6 truck in another picture, you know, the bed sides
7 still good, the doors still good, the fenders
8 still good, to me it's parts, it's trash to you
9 guys, to me it's parts. I might come to your
10 garage and see junk, you guys think it's good,
11 this stuff is valuable to me. All right, picture
12 No. 7, the little Toyota pickup truck in the first
13 one, the tan truck runs and drives, it has a rusty
14 frame, it's not safe to use on the road, we use it
15 around the house, we haul a little firewood in it,
16 we haul brush, throw a battery in it, it fires
17 right up, I usually use a little booster pack to
18 start it. As a matter of fact it's not sitting
19 there anymore, it's back behind the big red barn
20 full of brush. The white truck behind it was a
21 truck that was brought to my shop, had a bad
22 engine and the fellow didn't want to fix it, he
23 gave it to me. I have since this picture sold the
24 transmission out of it for \$300 and the only

1 reason I kept the rest of it is the rear end and
2 the front end parts fit a vehicle you can see in
3 another picture that I do drive.

4 Photo No. 8 the Plymouth Neon, I don't
5 remember the year, I sold that car for \$700 on the
6 internet, fellow drove all the way from Evansville
7 to pick it up, he needed the front end and the
8 doors for a vehicle he wrecked, what you guys call
9 waste is \$700 to me, that is a lot of money.
10 Exposure No. 9 is an old cop car, it runs, it
11 drives, the tires are flat, it's been sitting a
12 while, not real sure what I am going to do with
13 it, it's got 85 or 86,000 miles on it, has a four
14 barrel engine in it, the motor in it actually will
15 fit my son's truck, it's a spare engine but it's a
16 pretty nice old car, I hate to just cut it in
17 half. Photo No. 10 is an '82 Chevrolet pickup
18 truck that is registered to me, it does not have
19 current license on it, it does run, it does drive,
20 I drove that truck for eight, nine years. When I
21 am in a bind and I need a vehicle, I can put a
22 battery in it, it will go.

23 Exposure No. 11 is a mid '80s Chevrolet
24 Fiaro, the parts are very valuable in that car,

1 the hood is missing cause I sold it for \$200.
2 There is no engine under the hood, it's a rear
3 engine car, the engine on it is still on the car,
4 the engine is still covered. What you are looking
5 at is like the trunk on a normal car, there is a
6 hole in the bottom so the water can drain, it has
7 a drain hole. The silver thing in the front is
8 actually the radiator, it's a mid engine car, it's
9 not a front engine car. I also have a Fiaro race
10 car that I drive and it's a parts car for that.
11 My son actually has it now, I gave it to him.
12 Exposure No. 12 Ford Bronco, transmission went out
13 of it, I looked for years for a transmission, that
14 was my personal driver for five or six years. I
15 looked everywhere for a transmission, I found one
16 two months ago, I just bought it, I could bring
17 the receipt in and show you if you'd like, I got
18 it from the used Bullet Yard (spelled
19 phonetically) in St. Louis. I will be fixing that
20 as soon as I get the opportunity, it's a good
21 truck and the Ford LTD I hit a deer with that and
22 a had a small loan on it at the bank and I just
23 recently got it paid off, I couldn't haul it off
24 until I got it paid off, I had liability

1 insurance, I hit a deer on the way to a concert in
2 St. Louis as a matter of fact. I drove that car
3 for about three years, it still runs, it has a
4 good engine and tranny if I can find someone that
5 needs the motor and tranny, it will fit from 1986
6 up to 1996 Ford trucks, it will fit '85 to '94
7 Ford cars, full size cars, motor's worth \$500,
8 \$600 if I can find someone needing it plus I will
9 get paid for putting it in.

10 I guess my major thing is we started
11 this, I had a lot more cars and I got rid of the
12 trash, I did and there was an open -- the previous
13 citation you guys are talking about was an iron
14 pile that came with my house, I didn't create it,
15 I didn't make it bigger, I just didn't do anything
16 with it, it was sold at the auction, a guy cherry
17 picked it, left what was out there, I kind of
18 forgot about it, it was out there in the trees, it
19 wasn't as big as this room right here. I paid the
20 fine on that, I should have cleaned that up on the
21 ground but this stuff isn't trash, it might appear
22 trash to someone that doesn't work on cars but
23 that is what I do, I build derby cars, I build
24 race cars, I hate to back up here, the white Ford

1 LTD in exposure No. 13, that car is worth about
2 750 bucks just to derby without an engine, certain
3 frame the guys want. If you're not into that
4 stuff and you don't know what you are looking at,
5 it's trash to you but it's not trash to me, it's
6 money to me.

7 HEARING OFFICER WEBB: Ms. Ryan, do you
8 have any questions?

9

10 CROSS EXAMINATION

11 By Ms. Ryan

12 Q. Mr. Lewis, when you refer to the
13 rear-end and front end of the vehicle, what
14 vehicle are you actually talking about there?

15 A. The differentials, the axles under
16 the vehicle.

17 Q. So that may not be visible from some
18 of the photographs then, you are talking about a
19 part that is not sticking out?

20 A. The blue Ford pickup truck is the
21 one we are talking about. If you noticed it's
22 sitting flat on the ground, it's cause the axles
23 were sold out.

24 Q. You removed the rear end and the

1 front end from that vehicle?

2 A. Yes, they were put in another
3 vehicle I own. If I would have went to the
4 salvage yard that would have cost me a thousand
5 dollars instead it's a truck I got a hundred bucks
6 in, I made money off the parts the way I look at
7 it, I had to have those parts.

8 Q. Who is the tenant that you evicted
9 from that house in the picture?

10 A. What was her name? Jason Phillips,
11 give me a second, her last name was Phillips,
12 Brandy.

13 Q. Brandy Phillips?

14 A. Yeah, actually I don't know if that
15 is her legal name or Brandy Carson is her legal
16 name. She was getting divorced when she lived
17 there.

18 Q. What date was she evicted?

19 A. I don't have a clue, ma'am, I'd have
20 to go home and look at that.

21 MS. RYAN: That is all.

22 HEARING OFFICER WEBB: Would you like to
23 call your fiance as a witness, does she want to
24 say anything?

1 MR. LEWIS: Yeah, I think I do.

2 MS. RYAN: You want to explain the
3 difference between testifying and public comment
4 to her?

5 HEARING OFFICER WEBB: Do you want to --
6 the difference is testimony is sworn and you are
7 also subject to cross examination from the EPA or
8 you can just make a public comment which is not
9 sworn and not subject to cross.

10 MR. LEWIS: Public comment is fine, more
11 than anything just go through the cars and give
12 your take on stuff.

13 HEARING OFFICER WEBB: What's your name?

14 MS. LOMAS: Jill and my last is Lomas,
15 L-o-m-a-s.

16 HEARING OFFICER WEBB: Ms. Lomas is
17 making a public comment.

18 MS. LOMAS: I lived at the property
19 since 2008 and a lot of these cars, you know, Mark
20 does do a lot of work on. He owns a business, he
21 owns a mechanic business obviously. He has moved
22 some of the cars, he has sold some of the parts.
23 The rental house has been cleaned up around, it
24 looks totally different than it does now, there is

1 no open dumping, it's all cleaned up. I am not
2 sure how you would expect us to put all these cars
3 in a barn when we have our personal vehicles in
4 the barn or our restaurant equipment. There is --
5 he works on each and every one of these things, we
6 have people coming to the house all the time. I
7 am not kidding you two or three times a week
8 someone will stop by and ask does he have a part
9 for this, does he have a part for that, does he
10 have a car that I can buy for this, we've had
11 people, you know, just randomly stop by, it's not
12 like he is not doing anything with the stuff, I
13 mean it is valuable to him, I think that is all I
14 have.

15 HEARING OFFICER WEBB: I will just make
16 son concluding remarks here, the transcript is due
17 by November 4 and will be posted on the board's
18 web site. The public comment deadline is November
19 6. Any public comment must be filed in accordance
20 with section 101.628 of the board's procedural
21 rules. The agency's brief is due by November 13
22 and Respondent's brief is due by December 2.
23 Ms. Ryan, would you like to make any closing
24 statement?

1 MS. RYAN: No thank you, I will reserve
2 that for my brief.

3 HEARING OFFICER WEBB: Mr. Lewis, would
4 you like to make any closing statement?

5 MR. LEWIS: No, I don't guess.

6 HEARING OFFICER WEBB: At this time I
7 will conclude the proceedings. We stand adjourned
8 and I thank you all for your participation.

9

10 * * * *

11

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23

24

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF CLINTON)
4
5
6

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

12
13 Dated this 5th day of November 2013.
14
15
16

17 Kimberly Gammon

18 Kimberly Gammon, CSR 084-3586
19
20
21
22
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