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STATE OF ILLINOIS
Pollution Control Board

POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
vs.)
DOUGLAS S. CARRICO d/b/a,)
CARRICOS AUTO HEAP,)
Respondent.)

AC 04-27
Administrative
Citation

DATE: Wednesday, April 7, 2004

TIME: 10:00 AM

PLACE: City Hall Council Room
621 S. Main Street
Carrolton, Illinois

Kimberly A. Ganz, CSR, RPR, RMR, CRR
IL Lic. #084-001691
MO Lic. #721

1 APPEARANCES:

2 MS. MICHELLE M. RYAN
3 DIVISION OF LEGAL COUNSEL
4 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
5 1021 North Grand Avenue East
6 P. O. Box 19276
7 Springfield, IL 62794-9276
8 on behalf of the Complainant;

9 MR. DOUGLAS CARRICO
10 PRO SE

11 MS. CAROL SUDMAN
12 HEARING OFFICER
13 ILLINOIS POLLUTION CONTROL BOARD
14 1021 North Grand Avenue East
15 P. O. Box 19274
16 Springfield, IL 62794-9274

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1 HEARING OFFICER: We will go ahead and
2 get started. Good morning. My name is Carol
3 Sudman. I'm a hearing officer with the
4 Pollution Control Board. This is the hearing
5 for AC 04-27, IEPA versus Douglas Carrico doing
6 business as Carricos Auto Heap. It's April 7,
7 2004, and we are beginning at 10:00 AM.

8 I'll note for the record that there are no
9 members of the public present. Members of the
10 public are allowed to provide public comment if
11 they so choose.

12 At issue in this case is the EPA's
13 allegation that Mr. Carrico violated the
14 Environmental Protection Act by allowing the
15 open dumping of waste at 19291 Carrico Road in
16 Kane, Greene County. You should know that it's
17 the Pollution Control Board and not me that will
18 make the final decision in this case. My
19 purpose is to conduct the hearing in a neutral
20 and orderly manner so that we have a clear
21 record of the proceedings. I will also assess
22 the credibility of any witnesses on the record
23 at the end of the hearing.

24 This hearing was noticed pursuant to the

1 act and the board's procedural rules and will be
2 conducted pursuant to sections 101.600 through
3 101.632 of the board's procedural rules.

4 At this time I would like to ask the
5 parties to please make their appearances on the
6 record.

7 MS. RYAN: Michelle Ryan, special
8 assistant attorney general for the Environmental
9 Protection Agency.

10 MS. MIER: Jan Mier, environmental
11 protection specialist for the Illinois
12 Environmental Protection Agency.

13 MR. CARRICO: Doug Carrico.

14 HEARING OFFICER: Representing yourself,
15 okay. Are there any preliminary matters to
16 discuss before we begin?

17 MS. RYAN: I don't have any.

18 HEARING OFFICER: Okay. Miss Ryan, would
19 you like to make an opening statement?

20 MS. RYAN: Yes. We believe that the
21 evidence today will show that on October 28,
22 2003, Mr. Carrico caused or allowed open dumping
23 resulting in litter at his property in Kane,
24 Greene County, Illinois, and that there are no

1 defenses to this violation.

2 HEARING OFFICER: Thank you. Mr. Carrico,
3 would you like to make an opening statement
4 before we begin? You don't have to.

5 MR. CARRICO: No, I guess not.

6 HEARING OFFICER: Okay. Miss Ryan, you
7 may present your case.

8 MS. RYAN: We call Jan Mier.

9 HEARING OFFICER: Miss Mier, would you
10 please take a seat on the witness stand.

11 JAN MIER

12 Called as a witness, being duly sworn, testified
13 as follows:

14 DIRECT EXAMINATION

15 By

16 MS. MICHELLE M. RYAN

17 Q. Please state your name and spell it for
18 the record?

19 A. Jan Mier. J-a-n M-i-e-r.

20 Q. What is your job?

21 A. I'm a field inspector for the
22 Environmental Protection Agency.

23 Q. How long have you been a field inspector
24 with the EPA?

1 A. About 10 years.

2 Q. What are your duties as a field
3 inspector?

4 A. We investigate complaints and violations
5 of the Environmental Protection Act and the
6 Pollution Control Board regulations.

7 Q. Approximately how many inspections have
8 you conducted in your years at EPA?

9 A. Over a thousand.

10 Q. What is your educational background?

11 A. I have a Bachelor's Degree in biology.

12 Q. From?

13 A. From the Sangamon State University.

14 Q. Have you had any other training besides
15 your Bachelor's Degree?

16 A. We have occasionally we have seminars, on
17 site training in terms of the law, dealing with
18 people, that type of things.

19 Q. Are those presided by the agency?

20 A. Yes, or a contractor.

21 Q. Are you familiar with the Carricos Auto
22 Heap property in Kane, Greene County, Illinois?

23 A. Yes, I am.

24 Q. Where is that property located?

1 A. On Carricos Road outside of Kane.

2 Q. Who owns that property?

3 A. Douglas Carrico.

4 Q. How many inspections have you conducted
5 at the property?

6 A. Four.

7 Q. I'm going to show you what I've marked as
8 Exhibit 1. Can you tell me if you recognize
9 that document?

10 A. Yes.

11 Q. What is it?

12 A. This is an inspection report for an
13 inspection I did on October 28, 2003.

14 Q. Can you page through the inspection
15 report for me? Is that a fair, accurate, and
16 complete copy of your report?

17 A. Yes, it is.

18 Q. Can you describe this property generally
19 speaking?

20 A. The site was a salvage yard that is now
21 closed down. It contained tires, autos, auto
22 parts.

23 Q. Are there any structures on the property?

24 A. There is a large building that was

1 probably used in the salvage business.

2 Q. Who took the photographs that are
3 attached to this report?

4 A. I did.

5 Q. Beginning with photograph No. 1 which is
6 on page 6, can you describe what is shown in
7 these photographs?

8 A. Yes. The building is in the background
9 and there is tractors, vehicles, vehicle parts,
10 there is a bathtub, some rusted metal, scrap
11 metal.

12 Q. Go ahead and continue through the photos.

13 A. The second one shows a truck bed with
14 some off rim tires on it surrounded by
15 vegetation. The third photo shows the shed in
16 the background and some heavy equipment with the
17 metal and tires. It looks like plastic,
18 miscellaneous debris. The fourth is a car
19 crusher that is used in the salvage business and
20 it has glass and metal and plastic with some oil
21 stains on the ground. No. 5 is a school bus and
22 No. 6 is a vehicle with car parts, glass, metal,
23 and plastic on the ground. Photo 7 is where the
24 tires previously on site were. There is tires

1 on axle and lumber with a combine in the
2 background. Photo 8 shows a tractor, a truck,
3 and there is some lumber in the weeds. Photo
4 No. 9 shows tires on the axles, metal, and
5 vehicle parts. Photo 10 shows some abandoned
6 vehicles. Photo 11 has some cardboard, rusted
7 pipe, and I think gas lanterns. Photo 12 shows
8 two tractor tires that are off the rim. And
9 photo 13 shows the inside of the shed with tires
10 and auto parts.

11 Q. Okay. In the photographs that show
12 vehicles, could you determine whether any of
13 these vehicles were operational?

14 A. I didn't -- they looked like abandoned.
15 They had been there in weeds and vegetation and
16 many of them were damaged.

17 Q. And does that include the trucks and the
18 tractors and the cars?

19 A. The truck and tractor could be
20 operational but I have no way of knowing.

21 Q. Okay. Do these photographs accurately
22 depict what you saw at the property on that day?

23 A. Yes.

24 Q. When was this report generated?

1 A. When was it? A few days after my
2 inspection.

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

5 A. Yes.

6 MS. RYAN: At this time, we would move
7 Exhibit 1 into evidence.

8 HEARING OFFICER: Do you have any
9 objection?

10 MR. CARRICO: No.

11 HEARING OFFICER: The Exhibit 1 is
12 accepted into evidence.

13 MS. RYAN: That's all I have at this time.

14 HEARING OFFICER: Okay. Mr. Carrico,
15 would you like to ask the witness any questions
16 about what she's just testified to?

17 MR. CARRICO: I have an outline kind of
18 laid out which part of it is questions and part
19 of it is statements.

20 HEARING OFFICER: You'll have an
21 opportunity to at that time stand and make your
22 statements. I just want to know right now if
23 you have any questions for this witness.

24 MR. CARRICO: If I could go through this.

1 If I could take a few minutes.

2 CROSS EXAMINATION

3 By

4 MR. DOUGLAS CARRICO

5 Q. The statement that you made on October
6 28, 2003, that I caused or allowed open dumping
7 on the property, could you define open dumping
8 for me?

9 A. It's a placement of litter on the ground.
10 Any waste.

11 Q. Okay. What would you say is litter?

12 A. Well, litter is --

13 MS. RYAN: Objection. It calls for a
14 legal conclusion.

15 HEARING OFFICER: I'm going to agree with
16 that, sir. These are all terms that are defined
17 in the Environmental Protection Act and I can
18 get you copies of all of those definitions, but
19 she's not an attorney. It's really, you know,
20 not her place to interpret that. You can ask
21 her questions about what she's seen or --

22 Q. But the way that the statement was made,
23 it sounds to me like on October 28 on that day I
24 allowed open dumping. What is your real intent

1 in the statement?

2 A. It means that waste was on site and open
3 dumping was present on site the day of
4 inspection.

5 Q. Okay. So, it would have been up to that
6 date; it wasn't necessarily dumped on that date?

7 A. Correct.

8 MR. CARRICO: Okay. Some of the
9 statements that you made in the last letter I
10 got I'll have to refute but I guess that is
11 really not necessarily in the form of a
12 question. It would just be in my statement.

13 HEARING OFFICER: Okay.

14 Q. In the time that we've dealt with --
15 we've never met face-to-face, it's always been
16 over the phone and stuff and through the mail
17 that we've talked with each other, but have I
18 ever during the time that we've been dealing
19 with each other told you no, I'm not going to do
20 that, or refused to do something that you've
21 asked me to do?

22 A. No.

23 Q. Okay. If you'll remember, you'll agree
24 that the original estimate of tires was grossly

1 under estimated?

2 A. I'll agree with that.

3 Q. Maybe this is a legal question to you,
4 let me know. Is it illegal for a salvage yard
5 to have car parts and metal salvage dumped on
6 their property?

7 A. What do you mean dumped? By other
8 people?

9 Q. Yeah, customers.

10 A. Well, when a salvage yard is operating,
11 they can take metal on their property and
12 recycle it.

13 Q. Okay. One question I might ask which you
14 may overrule, too. Does the Illinois
15 Environmental Protection Agency have the
16 authority to overrule a business decision of a
17 business owner? I'll put it in context for you.
18 Like --

19 MS. RYAN: I'm just going to object to the
20 question regardless of what you have to say
21 after that because I don't think this witness is
22 qualified to testify as to the authority of the
23 EPA in that.

24 MR. CARRICO: Would you like me to

1 rephrase it in a situation?

2 MS. RYAN: I don't think there is anything
3 that you could say that it would be appropriate
4 for her to answer.

5 HEARING OFFICER: Yeah. I don't think
6 that's really terribly relevant. I mean, you
7 know, they are talking about, you know,
8 violations under the act and I don't think it
9 really relates to business decisions. But if
10 you want to make -- when you make your
11 statement, if you want to touch on that, I'll
12 allow it.

13 MR. CARRICO: I think that would be
14 probably all the questions that I would have.

15 HEARING OFFICER: Okay. Miss Ryan?

16 REDIRECT EXAMINATION

17 By

18 MS. MICHELLE M. RYAN

19 Q. Miss Mier, was this salvage yard
20 operating on October 28, 2003?

21 A. No.

22 Q. In fact, do you know when it stopped
23 operating?

24 A. My first inspection, which I believe was

1 in June of 2002, the Secretary of State had
2 brought us out there because the business had
3 closed down.

4 Q. So, it had closed down prior to your
5 first inspection in June of 2002?

6 A. I am assuming so, yes.

7 MS. RYAN: Thank you, that is all.

8 HEARING OFFICER: Do you have any further
9 questions about what Miss Ryan just asked?

10 MR. CARRICO: No.

11 HEARING OFFICER: Okay. Thank you very
12 much. You may step down. Miss Ryan, do you
13 have anything further you would like to present?

14 MS. RYAN: No, I don't.

15 HEARING OFFICER: Thank you. Mr. Carrico,
16 you may now take the stand.

17 DOUGLAS CARRICO

18 Called as a witness, being duly sworn, testified
19 as follows:

20 HEARING OFFICER: Go ahead.

21 MR. CARRICO: Well, it was mentioned that
22 my place was an open dump and that's why I was
23 wanting the definition of what they meant by
24 that. And my question also that are all salvage

1 yards in violation of being an open dump.

2 All the so-called litter that was on the
3 property was the result of conducting my salvage
4 yard's business that I was legally licensed to
5 do up to the point where the EPA was brought in.
6 Nothing had been open dumped, if you want to
7 call it that, or added to this property since
8 the time that I stopped conducting my business.
9 As soon as I went out of business, turned over
10 my license to the Secretary of State, I took no
11 more items. There was nothing else brought in.
12 Everything that was there during the inspections
13 were things that were not cleaned up yet. Of
14 course, I hadn't started the cleanup after the
15 first inspections but the subsequent
16 inspections, they were just things that was not
17 cleaned up yet.

18 In the letter that Miss Mier sent out, it
19 said in there that there was little change in
20 the site. I was upset by that because we had
21 since her June 2 inspection of 2003 which was
22 the one prior to that, we had removed 800 more
23 tires that was the remainder of the tires that
24 was there pretty much. There were an estimate

1 of maybe 50 ton of scrap metal that was removed.
2 There was approximately nine car bodies that had
3 been removed and some of the pictures that were
4 taken did not include pictures of areas of the
5 work place.

6 HEARING OFFICER: May I interrupt you for
7 a minute? Please continue.

8 MR. CARRICO: I understand, of course,
9 that the pictures that you take is going to be
10 of the bad spots but there were no pictures
11 taken of the spots that had been cleaned up.

12 The shed, there are two large buildings on
13 each side of the barn. One picture was taken on
14 the interior of one, no pictures were taken on
15 the interior of the other side. The other side
16 had been as full as the one that a picture was
17 taken of and at the final inspection, it was
18 cleaned out, swept clear down to the clean floor
19 and there was no pictures taken of that and so
20 there was a lot of things that had been removed
21 that was not mentioned. So, the statement that
22 there was little change is a gross exaggeration.

23 It was said that there was a school bus
24 that was new to the site. In fact, this school

1 bus has been there all along. I have my book
2 with me of when I purchased that school bus. It
3 was in 1990 so that school bus has been there
4 since 1990. It had just not been removed yet.

5 It was said that there was a roll-off box
6 on site and that there appeared to be no attempt
7 to dispose of things. That was not a roll-off
8 box, it was just a truck bed. It's not a roll-
9 off box.

10 It was mentioned in the pictures that
11 there was vegetation growing up and that was one
12 of the questions that I didn't ask. I didn't
13 know that vegetation was illegal to let it grow.
14 One of the pictures showed what was said to be
15 gas lanterns. In reality, these were not gas
16 lanterns, they were sealed units that had been
17 purchased in the process of doing business.
18 They are recyclable. We recycled those. Just a
19 few had not been removed yet.

20 HEARING OFFICER: Mr. Carrico, are you
21 speaking about one of the pictures that is in
22 this package here?

23 MR. CARRICO: Right.

24 HEARING OFFICER: Do you know which one?

1 MR. CARRICO: I have that back here just a
2 little bit further if you want to wait until I
3 get through that.

4 HEARING OFFICER: Okay.

5 MR. CARRICO: As I said, I have never
6 refused to do what has been asked of me. I've
7 always to the best of my ability done what was
8 requested. Since I closed the business, of
9 course, I had to start working and I drive a
10 truck now full-time and so I don't have a lot of
11 time to work on it. I do as much as I can when
12 I'm there and I have people that I've paid to
13 come in and do what I can as I'm able. I'm not
14 a wealthy person. I can't just have it taken
15 care of all in a few weeks.

16 Something else I forgot to ask. Every
17 time Miss Mier and I spoke on the phone, her
18 focus was always tires. Every time we talked,
19 she always said how is the tire removal coming.
20 It was as if her main concern was tires. So, I
21 made that my main concern. The removal of the
22 tires is what I gave priority to. So, all of
23 the people that I had helping, all of the monies
24 that I had available went towards getting rid of

1 the tires and the metal and other things was
2 left for after the tires were done, and so
3 that's why it may have seemed that there was not
4 much going on with the other things because all
5 of our focus was on the tire removal which we
6 took care of. We got that taken care of.

7 I might mention that that took longer than
8 I expected because originally the estimate was
9 2,500 tires on site and what there ended up
10 being after all of my receipts that I've gotten
11 now is 6,110 tires is what there ended up being
12 there. So, that, of course, took longer than
13 what we expected because we thought there was
14 only 2,500. This took us 13 months to get rid
15 of the tires and the tire removal agreement that
16 I signed with the EPA and the paperwork that was
17 given to me on that in that agreement, it states
18 that a site containing 1,000 tires or more is
19 allowed two years to remove the tires and can be
20 granted an extension on top of that. So, we
21 were well within the two year period on the tire
22 removal. We did a very good job, I thought,
23 with that. I was instructed to buy larvicide
24 for the tires to put on them. I did that. I

1 did everything that was asked of me to do.

2 Okay, now I'll get to the pictures.

3 Picture No. 1. If you want to go back through
4 them, I'll just make a few statements.

5 HEARING OFFICER: I'll just mention for
6 the record that you are looking at the
7 complaint. It's Exhibit 1 and we are going
8 through those digital photographs.

9 MR. CARRICO: Picture No. 1, and what I'm
10 going to say is the quotations by the pictures
11 that was in that letter, so you'll see that to
12 the side. The quotation is rusted tractors and
13 bathtub. The tractors are Oliver tractors, they
14 are antique tractors. I'm sure that doesn't
15 necessarily mean anything to you but those are
16 not junk, they are antiques. The one in
17 particular was one of my dad's tractors. He was
18 an Oliver tractor lover and he passed away in
19 1988 so I would like to hang on to that one, and
20 I would hope that I would be allowed to keep
21 items like that. I didn't realize that those
22 were not allowed.

23 Picture No. 2 shows a rusted truck bed
24 with some tires on it. Those tires have since

1 been removed. Those were some that we just
2 overlooked prior to that last inspection and
3 that truck is a 1952 Ford that still runs and
4 the bed works on it, it's got a hoist on it, so
5 we use that in the junk yard to haul things
6 around in the operation of the business that I
7 have since gotten rid of that truck. I sold it
8 to a restorer.

9 Picture No. 3 shows a front end loader and
10 some various other parts. I realize that other
11 parts are things that have to go. The loader,
12 I'm assuming that just because the loader was
13 mentioned doesn't mean that it's illegal to
14 have. I mean, the loader works. I use that and
15 still use it. So, hopefully that is not
16 something that I have to get rid of.

17 No. 4 shows plastic and the oil and
18 everything by the car crusher. The plastic,
19 every time plastic is mentioned in these
20 pictures or letters, it is not plastic bags,
21 necessarily, like trash. It is plastic parts
22 off of cars, like bumper fascia and things like
23 that that is ripped and torn. That is most of
24 the plastic that is laying around, that is what

1 it's talking about. So, that is car parts which
2 was just not cleaned up yet and was generated in
3 the process of doing business.

4 Whenever I got rid of all of the cars that
5 I had there, the gentleman that came in and
6 removed them, where that picture was taken is
7 the area where he loaded them and things so
8 there was some trash generated there, you know,
9 metal plastic glass, all of that stuff, because
10 that is where he was doing his loading. And all
11 of that was there prior to the time that I went
12 out of business.

13 The oil that was mentioned, I had a seal
14 on my car crusher go out one time and it leaked
15 some oil out. I replaced the seal right away
16 and that was a small spill. I know I seen
17 safety videos before on EPA regulations and
18 anything under 50 gallon or 55 gallon is a non
19 reportable spill and it was just a small spill,
20 less than 50 gallon.

21 As I mentioned before, the school bus in
22 picture No. 5 was not new to the site. It was
23 purchased November 16, 1990, and picture No. 6
24 again mentions the plastic which was the result

1 of the business. It was again car parts.

2 Picture No. 7 mentions lumber and the
3 combine. The combine was also purchased during
4 the time that the business was in operation.
5 The lumber was the remainder of pallets and such
6 that parts and things were stored on that had
7 been broken up. You know, of course you have
8 some breakage of storage areas and stuff like
9 that, so the lumber was not like we tore down a
10 house and hauled lumber in and dumped it there.
11 It was just left over from the conduct of the
12 business.

13 Picture No. 8 shows tractor truck and
14 mentions lumber again. Again, the lumber was
15 just some more broken pallets and things like
16 that. The tractor and truck both run and
17 operate. The tractor, I moved it inside the one
18 building now, and the truck is operational, it
19 works.

20 Picture No. 9, tires on axles is still
21 just the remainder of the salvage business.
22 Things that had not been removed yet.

23 Picture No. 10 shows abandoned vehicles.
24 These are not abandoned vehicles. I have titles

1 for every one of them. They were again just
2 items that had not been removed yet. We are in
3 the process of doing that.

4 Picture No. 11 showed cardboard, rusted
5 pipe, and gas lanterns. These was just left
6 over from conducting business and as I mentioned
7 earlier, the gas lanterns were not gas lanterns,
8 they were sealed units.

9 The tractor tires off rims in picture 12
10 that were mentioned, those were some spare tires
11 that I had from one tractor loader that I had.
12 They were not scrap, you know. They were tires
13 that I was saving in case I needed them.

14 No. 13, tires and auto parts -- oh, that
15 is inside the shed. That is just the remainder
16 of some of the things that had been stored. As
17 I mentioned, the building on the other side was
18 cleaned out completely to the floor. There was
19 no mention of that. This building that the
20 picture was taken in has like five bays, I
21 think, five sections. The picture was taken on
22 the one end and it makes it look real bad. I
23 mean, you look in there and it looks bad but the
24 last two bays on that side had been cleaned out

1 and you can't really tell it from the picture so
2 we were working our way from the west end to the
3 east end and that's the end that we hadn't
4 gotten to yet. So, we, you know, we was just in
5 the process of getting to all of that.

6 Since the tires as I mentioned have all
7 been removed now and our focus has been able to
8 move towards the metal parts now, much of the
9 problems that are mentioned have been taken care
10 of. There is still some of the stuff in the
11 shed. We've gotten probably at least half of
12 the things in that picture inside the shed
13 removed. All of the cars are gone. The oil and
14 all the parts and plastic and glass and all of
15 that stuff have been removed.

16 It was said in one place in the letter
17 that I was operating a landfill without proper
18 permits. I looked up landfill and the
19 definition of a landfill is the layering of
20 scrap or litter, waste, however you want to word
21 it, with layers of dirt and I'm doing nothing
22 like that at all. All of these things was just
23 what was generated. You can go into any salvage
24 yard in the state of Illinois and you would find

1 these same things. The only difference is they
2 are still in operation and I am not and I'm
3 doing the best I can to take care of that. As I
4 said, I am driving a truck full-time so I'm
5 doing the best I can.

6 The fine that has been imposed on me I
7 think is unfair. I kind of look at it as if
8 you've got a child that is doing the very best
9 they can in school and they are bringing home
10 B's and you take things away from him because
11 they are not getting A's. If a child is doing
12 the best that they can, the B is the best they
13 are able to do, then, you know, you try to work
14 with that. I'm doing the best that I can. We
15 are making progress. We've made progress ever
16 since we started. The weather condition, there
17 is so many things that goes into it. It has
18 been raining a lot here lately so that slowed us
19 down some. We are making good progress. And if
20 this fine is upheld, it's just going to be
21 monies that I won't have available to do more of
22 the cleanup process. It's going to stretch it
23 out even further, make it longer, make it harder
24 on me to do.

1 Most of the savings that I've been able to
2 accumulate over the past several years, I've
3 used it all up on getting rid of the tires.
4 That took everything I had in savings, so all I
5 have now is just what is left over after paying
6 the weekly and monthly bills right now because
7 I've depleted everything that I had saved just
8 to get rid of -- get to the point where I am
9 right now.

10 The one question that I did have that you
11 wouldn't allow it to be answered, I don't know
12 if it's even necessary to go into that but I was
13 just wanting to find out because whenever we
14 first started, the price was terrible on metal.
15 Car bodies were worthless and I asked Miss Mier
16 at that time, I would like to keep these cars
17 for a year and wait to get rid of them. I'm
18 sure the price will bounce back after, you know,
19 a while and she told me that they had to go.
20 Well, it's been now, what, 13 months, I believe
21 I said, and the prices now are higher than
22 they've been since I've been in business for 18
23 years and I could have made a lot of money, you
24 know, in comparison to what I was able to. That

1 is why I asked that question because I just
2 didn't realize they had that authority to force
3 you to go against a business decision that you
4 felt was, you know, proper and right.

5 I do have some pictures if you would like
6 to see them of some of the same areas and the
7 progress that has been made.

8 HEARING OFFICER: Sure. If you would like
9 to show Miss Ryan first.

10 MR. CARRICO: This is inside the building.
11 This is out back where the abandoned cars were.
12 You didn't take pictures of this area but that
13 was an area that is cleaned up.

14 MS. MIER: Is this the road to your
15 mother's house here?

16 MR. CARRICO: Yes. It had been filled
17 with a bunch of stuff. This is the other shed
18 which now has a bunch of new equipment. Those
19 are the first few bays that were cleaned out
20 when you were there before. That is the truck
21 bed. I've been trying to fill in some little
22 holes and stuff with the water holes.

23 HEARING OFFICER: Mr. Carrico, I'm not
24 sure if the reporter got all of that. I know I

1 didn't hear it. Would you like to state again
2 for the record what these photos are? If you
3 want, you can stand right here and we can go
4 through them.

5 MR. CARRICO: Okay. This is what was said
6 to be a roll-off bed. It's just a truck bed.
7 And there was a bunch of mud holes in here. I'm
8 trying to fill those in. It's been so muddy,
9 I'm having trouble doing that. This is the
10 first two bays that I was talking about that
11 were clean that you couldn't see from that
12 picture that was taken from this angle. That is
13 cleaned out.

14 That is the one tractor that was out back.
15 I've moved it inside the shed now. This is the
16 shed that there was no picture taken of that was
17 cleaned out and I have now put a bunch of the
18 equipment that was outside.

19 Here is a truck and a snowplow that I had
20 and various things. This is a picture that
21 wasn't taken. This was at the prior inspection.
22 There was hundreds of parts and everything
23 there. It's been removed. That was removed and
24 this is one of the areas where it was said there

1 was little change and this had been changed
2 since the prior inspection. This is around back
3 where what was said to be abandoned cars. It's
4 gone now. There is some other equipment that I
5 still have sitting there.

6 This is by the car crusher where there was
7 a pile of glass and plastic off of the cars and
8 the oil and over here there was another picture
9 taken that was right here actually and that
10 there was a pile there, too, that is gone. That
11 has all been cleaned up and taken care of.

12 And then this is the inside of the shed
13 which we are still working on but as you can
14 see, there is considerable amount of --

15 HEARING OFFICER: So if I can summarize,
16 these are pictures that show parts of the
17 property that have been clean. Are any of these
18 photos of any of the identical locations that
19 are in this Exhibit 1?

20 MR. CARRICO: Yes. Would you like me to
21 point them out?

22 HEARING OFFICER: Well, are you planning
23 -- are you going to be offering these as
24 exhibits or did you just want to --

1 MR. CARRICO: I was just going to show
2 them to you.

3 HEARING OFFICER: Okay.

4 MR. CARRICO: If it would be helpful, I
5 can.

6 HEARING OFFICER: Do you have any -- do
7 you know when these photos were taken?

8 MR. CARRICO: Last night.

9 HEARING OFFICER: Oh, they were just taken
10 last night?

11 MR. CARRICO: I rode around last night.

12 HEARING OFFICER: You took all of these
13 yourself last night?

14 MR. CARRICO: Yeah. I knew I was going to
15 be coming up so I wanted to bring those with me
16 to show you what we've been doing.

17 MS. RYAN: I'm going to object that they
18 are irrelevant because they don't really reflect
19 the condition of the property on the date in
20 question, but --

21 HEARING OFFICER: I am going to sustain
22 Miss Ryan's objection because this proceeding
23 only involves the property as of the date of the
24 inspection but I appreciate you showing them to

1 me and, you know, it will be in the record.

2 MR. CARRICO: But like I said, all of the
3 things that were there were there legally
4 because I was licensed at the time that they
5 were placed there. After I relinquished my
6 license --

7 HEARING OFFICER: When did you relinquish
8 your license?

9 MR. CARRICO: I can't remember the exact
10 date but it was --

11 HEARING OFFICER: Approximately.

12 MR. CARRICO: It would have been, I would
13 think, around July, August of 2002.

14 HEARING OFFICER: Okay. Do you have
15 anything further that you would like to say?

16 MR. CARRICO: Well, just that there was
17 nothing else added after I went out of business.
18 I stopped taking things and then we started
19 removing things.

20 HEARING OFFICER: So that would have been
21 July or August of 2002?

22 MR. CARRICO: Yeah. There was never
23 anything added. The statements that she made
24 makes it sound like we were continually adding

1 to it and dumping there. We were not. We were
2 taking things away.

3 HEARING OFFICER: Okay. Miss Ryan, do you
4 have any questions for Mr. Carrico?

5 MS. RYAN: I do.

6 CROSS EXAMINATION

7 By

8 MS. MICHELLE M. RYAN

9 Q. Did you stop operating the property prior
10 to the time you relinquished your license?

11 A. I was still operating on weekends. I
12 didn't realize at the time that you couldn't do
13 that.

14 Q. Okay. You mentioned that the tractors
15 and the trucks on the property were operational.
16 What about the school bus and the cars that were
17 labeled abandoned in here?

18 A. They were a product of conducting
19 business.

20 Q. Were they operational was my question?

21 A. The school bus was not operational. It
22 was salvage. I have title for it, too, so it
23 wasn't abandoned.

24 Q. And the cars, were they operational?

1 A. No, they were not operational. They
2 also had titles on those.

3 Q. And you said you started removing
4 material in July or August of 2002 when you
5 relinquished your license, is that right?

6 A. Yes.

7 Q. In fact, you had several extensions to
8 the Illinois EPA to complete your cleanup, is
9 that right?

10 A. Yes.

11 Q. As of October 28, 2003, you still had not
12 completed the cleanup?

13 A. That's correct.

14 Q. You mentioned that Miss Mier seemed to be
15 primarily focused on the tires?

16 A. Right.

17 Q. Did she ever tell you that you didn't
18 have to remove the other waste that was on your
19 property?

20 A. No, she never told me I didn't have to
21 but her questions were always focused on the
22 tires. How is the tire removal coming.

23 Q. In fact, on October 28, 2003, there were
24 still tires on the property that hadn't been

1 properly disposed, is that correct?

2 A. There was a few, yes. Some of the tires
3 were not waste tires, some of them were, if you
4 want me to get into it, derby car tires.

5 Q. They were all used tires, is that right?

6 A. Used tires, yes. Some of them that were
7 still there in the inspection were not waste
8 tires. Many of them I should say. The majority
9 of them were not waste tires that were still
10 remaining.

11 MS. RYAN: That's all I have.

12 HEARING OFFICER: Okay. Mr. Carrico, if
13 you have nothing further you'd like to say, then
14 you may step down. We will go off the record
15 for a few minutes.

16 MS. RYAN: I was going to ask to recall
17 Jan in rebuttal to some of the information I was
18 given.

19 JAN MIER

20 Called as a witness, being previously sworn,
21 testified further as follows:

22 DIRECT EXAMINATION

23 By

24 MS. MICHELLE M. RYAN

1 Q. Miss Mier, I'm going to show you what
2 I'll mark as Exhibit 2. Can you tell me, do you
3 recognize that document?

4 A. Yes, I do.

5 Q. What is it?

6 A. It's the first letter that we had sent to
7 Mr. Carrico after my first inspection. It's
8 called a non compliance advisory letter.

9 Q. Can you page through it for me, please?

10 A. Yes.

11 Q. Is that a fair, accurate, and complete
12 copy of the non compliance advisory that was
13 sent to Mr. Carrico?

14 A. Yes.

15 Q. Why did you send this letter?

16 A. This is a letter that we send when we
17 hope the violations will be cleared up fairly
18 soon and that will be the end of it.

19 Q. And this letter was sent --

20 A. It was dated July 24, 2002.

21 Q. Which would have been after your initial
22 inspection of the property?

23 A. Right.

24 Q. Does that Exhibit 2 contain a deadline

1 for removing the waste from the property?

2 A. Yes, September 30, 2002.

3 Q. I'll show you what I've marked as Exhibit

4 3. Can you tell me if you recognize that
5 document?

6 A. Yes, I do. It's a violation notice that
7 we had sent to Mr. Carrico dated January 14,
8 2003.

9 Q. Can you page through it for me, please.

10 A. Yes.

11 Q. Is it a fair, accurate, and complete copy
12 of the violation notice that you sent to Mr.
13 Carrico?

14 A. Yes.

15 Q. Why did you send this notice?

16 A. Because there were still outstanding
17 violations after the deadline that was given to
18 him in the non compliance advisory letter.

19 Q. Does this notice contain a new deadline?

20 A. Yes, it does.

21 Q. Can you find that for me?

22 A. It was until February 28.

23 Q. Of what year?

24 A. 2003.

1 HEARING OFFICER: What page is that?

2 A. It's under suggested resolutions next to
3 the last page. Then we gave him until March 7
4 to submit copies of receipts that document the
5 proper disposal or recycling of the waste.

6 Q. Now I'm going to show you Exhibit 4. Can
7 you tell me if you recognize that document?

8 A. Yes, I do.

9 Q. What is that?

10 A. This is called a compliance commitment
11 agreement. When they respond to the violation
12 notice under Section 31 of the act, we have to
13 accept or deny the agreement that they've
14 proposed in terms of resolving the violations.

15 Q. So, this letter accepts the agreement
16 proposed by Mr. Carrico to achieve compliance at
17 the facility?

18 A. Yes, it accepts it and gives it another
19 extension.

20 Q. What is the deadline in this letter?

21 A. April 15, 2003.

22 Q. Can you page through this one yet for me,
23 please?

24 A. Yes, I did.

1 Q. Okay. Did I ask you if it's a fair,
2 accurate, and complete copy of the letter that
3 you sent?

4 A. Yes, it is.

5 Q. I'll show you what I've marked as Exhibit
6 5. Can you tell me if you recognize that
7 document?

8 A. Yes. This is a letter we sent to Mr.
9 Carrico dated June 12, 2003.

10 Q. And is that a fair, accurate, and
11 complete copy of that letter?

12 A. Yes.

13 Q. Why did you send this letter?

14 A. It was an extension letter granting him a
15 new extension to the deadline date for resolving
16 the violations.

17 Q. And what was the deadline in this letter?

18 A. July 1, 2003.

19 Q. And does this letter contain any
20 additional information regarding penalties or
21 potential enforcement?

22 A. Well, the sentence of if final cleanup is
23 not completed by July 1, enforcement action
24 including monetary penalties may result.

1 Q. I'll show you what I've marked as Exhibit
2 6. Do you recognize that document?

3 A. Yes. This is a letter sent to Mr.
4 Carrico dated July 9, 2003.

5 Q. Is it a fair, accurate, and complete copy
6 of the letter that you sent to him?

7 A. Yes, it is.

8 Q. Why did you send this letter?

9 A. We gave him a new compliance deadline of
10 September 30, 2003. I would also like to add
11 that we also removed 1,000 tires for Mr. Carrico
12 under a consent to removal agreement at no cost
13 to him. That is something the tire program
14 does.

15 Q. When did that removal take place?

16 A. I think, I'm not sure, I think about the
17 end of 2003. I would have to consult my file to
18 get the exact date on that.

19 Q. But it was after your initial inspection?

20 A. Yes.

21 Q. After you had sent him at least one of
22 these letters?

23 A. Right. And the first -- or in the
24 violation notice -- I'm sorry, in the non

1 compliance advisory letter, Exhibit 2, to
2 correct the apparent violations, No. 2 says that
3 you can get rid of them or that you can sign a
4 consent to removal agreement and the EPA will
5 remove a thousand tires at no cost to the
6 respondent.

7 Q. As you say, Mr. Carrico took advantage of
8 that offer?

9 A. Yes.

10 MS. RYAN: That's all I have.

11 HEARING OFFICER: Thank you. Mr. Carrico,
12 would you like to ask the witness any questions?

13 MR. CARRICO: Well, it's going to be kind
14 of hard going over this right quick.

15 CROSS EXAMINATION

16 By

17 MR. DOUGLAS CARRICO

18 Q. In the Exhibit 2 which is dated July 24,
19 2002, which was when we pretty much first
20 started, on page 2, one of the last statements
21 made says EPA may issue a formal violation
22 notice. And what I'm trying to get to by that
23 is, every letter that I've ever gotten from you
24 has said something like that or that there would

1 be -- or that there may be legal action taken
2 which is mentioned in some of these other ones.
3 So, even though it was taking more time than
4 anticipated, I assumed this to be kind of a form
5 letter, something that you put in every letter
6 and so I didn't expect to have this happen.

7 Let me look at this real quick. In the
8 suggested resolutions on Exhibit 3, this seems
9 to show my read of the situation in that the
10 tires were the focus because the suggested
11 resolution deals with the tires in this --

12 HEARING OFFICER: Mr. Carrico, do you have
13 any questions?

14 Q. Being that the suggested resolutions in
15 Exhibit 3 deals with the tires, would you say
16 that your focus was on tires?

17 A. Well, No. 2 states that submit to
18 Illinois a copy of receipts and manifest that
19 document proper disposal or recycling of the
20 wastes. So, that also includes the litter. The
21 emphasis on tires was because of the West Nile
22 and mosquito breeding abilities that they have.

23 Q. So, it would have been --

24 A. But that did not mean that the other

1 waste --

2 Q. Didn't need to go?

3 A. Right.

4 Q. I understand that. But would you say
5 that your preference would have been the tires
6 go first?

7 A. Yes.

8 Q. On June 12, I might point out again it
9 talks about the enforcement action, that is
10 Exhibit 5, which was in most all of the letters;
11 therefore, I wasn't necessarily expecting it.

12 HEARING OFFICER: Mr. Carrico, I'll let
13 you make another statement when she's done but
14 right now, this is your opportunity to ask her
15 -- if you don't have any questions for her, she
16 can step down and you can take the stand and
17 readdress some of the new issues that arose
18 since you stepped down.

19 MR. CARRICO: That's all I can really do.

20 REDIRECT EXAMINATION

21 By

22 MS. MICHELLE M. RYAN

23 Q. I do have one more question that I had
24 forgotten to ask. Miss Mier, did the EPA ever

1 give Mr. Carrico two years to remove any of the
2 waste off the property like he testified?

3 A. No.

4 MS. RYAN: I would also move Exhibits 2
5 through 6 into evidence. I had forgotten to do
6 that as well.

7 HEARING OFFICER: Any objection, Mr.
8 Carrico?

9 MR. CARRICO: No.

10 HEARING OFFICER: Okay. Exhibits 2
11 through 6 are admitted into evidence. You may
12 step down.

13 Now, Mr. Carrico, I'm allowing you to come
14 back up to address Exhibits 2 through 6. So,
15 I'll give you a minute to collect your thoughts
16 but I'd like to limit your testimony to those
17 exhibits.

18 MR. CARRICO: I guess I don't have any
19 questions on that stuff. One of the last
20 questions that she asked or I might address
21 that.

22 HEARING OFFICER: Okay. You're still
23 under oath, I'll remind you.

24 MR. CARRICO: Under the tire removal

1 agreement requirements, I don't know how you
2 would say this, but --

3 HEARING OFFICER: I'm sorry, what are you
4 looking at?

5 MR. CARRICO: The tire removal agreement
6 that was given to me by the EPA. Requirements,
7 tire removal agreement requirements.

8 HEARING OFFICER: This is not an exhibit.

9 MR. CARRICO: Not yet unless you want it
10 to be after I'm done. 35 IAC-Section 848.504
11 states if the site contains more than 1,000
12 tires but less than 10,000 tires. Then letter
13 B, the owner or operator may apply for an
14 extension of time no more than 90 days. It goes
15 on from there. But, anyway, she asked her about
16 the two years. If the EPA ever gave me two
17 years which they didn't in a letter didn't say
18 you have two years but in their own paperwork
19 that they gave me it did state that a site
20 containing more than a thousand tires is allowed
21 two years to remove them and I did it in 13
22 months. I mean, I didn't wait for the two year
23 time period to be over. But just to clear that
24 up.

1 It may have been a misunderstanding on my
2 part or, you know, just the ignorance on my part
3 of how they do things but it was just my
4 assumption and from the letters I got, it always
5 seemed that the focus was on the tires and so
6 that's why I was working my hardest on that,
7 letting the other things slide.

8 If I would have worked on everything at
9 the same rate, there would still be tires there
10 now and there would maybe be less metal parts
11 and things, but there would still be tires. I
12 mean, I can only do so much and I'm not dragging
13 my feet. I've never said no, I'm not going to
14 do that. I've never smarted off to her. I've
15 never been disrespectful to her. I've always
16 tried to cooperate and do my best and I just
17 feel that this is very unfair to impose a fine
18 on me for doing the best that I can. As I said,
19 we are going to continue until it's done. We
20 are going to finish. We are not planning on
21 stopping, never have, but I can only do what I
22 can do and that's all I have.

23 HEARING OFFICER: Okay. Miss Ryan?

24 MS. RYAN: Can I see a copy of that,

1 please?

2 CROSS EXAMINATION

3 By

4 MS. MICHELLE M. RYAN

5 Q. Where did you say you obtained this?

6 A. That was sent with the -- actually I got
7 that more than once. They sent that to me, the
8 EPA did, in some of the letters that I received
9 from them.

10 Q. This is a description of the statute and
11 the regulations relating to tire removal
12 agreements?

13 A. That is what I assumed that it was, yeah.

14 Q. In fact, you did not sign a tire removal
15 agreement with the Illinois EPA, did you?

16 A. Yes, I did.

17 Q. In fact, you signed a consent to removal
18 where the EPA agreed to clean up a thousand
19 tires at no cost but you did not sign a tire
20 removal agreement where you agreed to clean up
21 the tires by a certain deadline?

22 A. No, not that I can recall. I felt that
23 that consensual -- what you called a consensual,
24 I thought that was the tire agreement. I didn't

1 realize that is not what that was.

2 Q. But you did receive the other documents
3 that we introduced into evidence, Exhibits 2
4 through 6, indicating the deadlines for all of
5 them?

6 A. Yes.

7 MS. RYAN: Thank you.

8 MR. CARRICO: As I said, they were kind of
9 form letters and they all said the same thing,
10 so I was assuming that since they had worked
11 with me, they would continue to work with me. I
12 didn't realize that it was --

13 HEARING OFFICER: Can I see that?

14 MR. CARRICO: That was the consensual tire
15 agreement, is that what you call it? I think
16 that was stapled to that whenever I received
17 that and I have a copy of that with me, too.

18 HEARING OFFICER: Did you want to
19 introduce this as an exhibit?

20 MR. CARRICO: Yeah, I can. I have another
21 one of those, too, so that is fine. I mean,
22 I'll have a copy for myself, too, if you want to
23 keep that one.

24 HEARING OFFICER: Do you have a copy or

1 would you need me to sent one?

2 MR. CARRICO: I do have one because that
3 was sent to me more than once.

4 HEARING OFFICER: Do you have any
5 objection?

6 MS. RYAN: I'm a bit concerned because I'm
7 not exactly clear on when this allegedly was
8 sent to him and there is no date on it and there
9 is no -- I can't verify the foundation of the
10 thing is my problem.

11 HEARING OFFICER: If you have any idea
12 when this was sent to you?

13 MR. CARRICO: I'm pretty sure this was
14 stapled to the original but this is dated
15 8/8/02.

16 HEARING OFFICER: Truthfully, I don't know
17 that we really need this document, Mr. Carrico.
18 It's just a summary of the board or the
19 environmental regulations which the board has
20 and really, all it does is summarize section
21 55D2 of the act, 35 IAC 848.502, 848.503,
22 848.504, 505, 506, 507, 508, 509 which the board
23 would already have that information.

24 MR. CARRICO: I have another one right

1 here.

2 HEARING OFFICER: I don't think that
3 really is terribly relevant or necessary to
4 admit that as an exhibit.

5 MR. CARRICO: But it was sent to me by the
6 EPA.

7 HEARING OFFICER: Okay. You're done, yes?
8 Miss Ryan, do you have anything further?

9 MS. RYAN: No, thank you.

10 HEARING OFFICER: Off the record for a
11 minute to discuss briefing.

12 (A discussion was held off the record.)

13 HEARING OFFICER: We've just had an off
14 the record discussion regarding post hearing
15 briefs and the parties have agreed to a briefing
16 schedule as follows: First, the transcript of
17 these proceedings will be available from the
18 Reporter by April 19, 2004, and will be posted
19 on the board's website shortly thereafter. The
20 public comment deadline will be May 3, 2004.
21 Any public comment must be filed in accordance
22 with Section 101.628 of the board's procedural
23 rules. Complainant's brief is due May 3, 2004;
24 respondent's brief is due June 1, the mail box

1 rule will apply; and complainant's reply if any
2 is due June 15. Miss Ryan, would you like to
3 make a closing argument?

4 MS. RYAN: No, I would like to reserve
5 that for my brief.

6 HEARING OFFICER: Mr. Carrico, would you
7 like to make any closing argument?

8 MR. CARRICO: No, ma'am.

9 HEARING OFFICER: Since there are no
10 members of the public here, I will proceed to
11 make a statement as to the credibility of
12 witnesses testifying during this hearing.

13 Based on my legal judgment and experience,
14 I find both of the witnesses testifying to be
15 credible. At this time, I will conclude the
16 proceedings. I thank all of you for your
17 participation and we stand adjourned.

18 HEARING ADJOURNED:
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20
21
22
23
24

1 STATE OF ILLINOIS) SS.

2 COUNTY OF WASHINGTON)

3

4 I, KIMBERLY A. GANZ, Lic. No. 084-
5 1691, a Certified Shorthand Reporter in and for
6 the County of Washington, State of Illinois, DO
7 HEREBY CERTIFY that the foregoing transcript was
8 taken down in shorthand by me and afterwards
9 transcribed under my direction by computer
10 transcription and said transcript is herewith
11 returned.

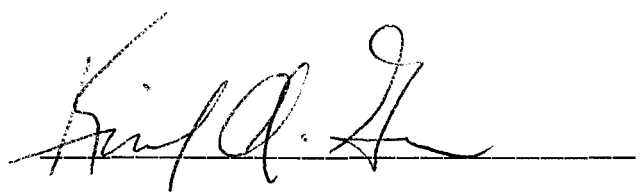
12 IN WITNESS WHEREOF, I have hereunto
13 set my hand and affixed my Seal this 13th day of
14 April, 2004.

15

16

17

18


Certified Shorthand Reporter

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