

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3 COUNTY OF JACKSON, ILLINOIS,)

4 Complainant,)

5 vs.)

6 GARY EASTON,)

7 Respondent.)

AC 96-58
)Administrative Citation

8

9 HEARING CONDUCTED AT THE JACKSON COUNTY COURTHOUSE

10 MURPHYSBORO, ILLINOIS

11 NOVEMBER 6, 1996, 2:00 P.M.

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APPEARANCES

15 Chief Hearing Officer..... Mr. Michael L. Wallace

16 For the Complainant.....Mr. Daniel W. Brenner
 Assistant State's Attorney

17 For the Respondent.....Mr. Gary Easton

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24 REPORTER: Leanne R. Mausey, RPR, CSR # 084-003338.

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1 MR. WALLACE: Pursuant to the direction of
2 the Illinois Pollution Control Board I now call
3 docket No. AC 96-58. This is an administrative
4 citation, County of Jackson versus Gary Easton. May
5 I have appearances for the record, please.

6 MR. BRENNER: Daniel Brenner, assistant
7 state's attorney, County of Jackson.

8 MR. WALLACE: And, Mr. Easton, would you
9 state your name and address for the record, please.

10 MR. EASTON: Gary Easton, 148 Ava Road,
11 Murphysboro.

12 MR. WALLACE: What was the street name?

13 MR. EASTON: 148 Ava Road. Originally it
14 was Route 3, but Route 148 Ava Road.

15 MR. WALLACE: Could you spell that.

16 MR. EASTON: 148 Ava Road, A-v-a.

17 MR. WALLACE: Are you ready to proceed, Mr.
18 Brenner?

19 MR. BRENNER: Yes. I am. I'd like to
20 examine Mr. Easton first, if I may, and I'll also ask
21 Mr. Browning to testify as well.

22 GARY EASTON and GEORGE BROWNING
23 being first duly sworn to tell the truth, the whole
24 truth and nothing but the truth, testify, as follows:

1 MR. WALLACE: Before I get too far ahead of
2 myself, do you waive opening statements?

3 MR. BRENNER: I'll waive opening statement.

4 MR. WALLACE: Mr. Easton, do you want to
5 make an opening statement?

6 MR. EASTON: No.

7 MR. WALLACE: You may proceed.

8 TESTIMONY OF MR. GARY EASTON

9 DIRECT EXAMINATION

10 BY MR. BRENNER:

11 Q. Your name and address?

12 A. Yes.

13 Q. It's the same as what you just stated?

14 A. Yes.

15 Q. I'd like to show you some photographs and
16 I'll move to have these admitted later, but I'd like
17 for you to take a look at these photographs, if you
18 would, for me.

19 A. Yes.

20 Q. Can you identify those pictures?

21 A. Yes.

22 Q. What are those pictures?

23 A. Well, stuff.

24 Q. Let me ask you this, is this the citation

1 for which you are here on today? Do you believe it's
2 the citation for which you are here on today?

3 A. Yes.

4 Q. Let's look at picture No. 9 and -- pictures
5 No. 9 and 10. You see there is tires? 9 and 10, do
6 you recognize this site, correct?

7 A. Yes.

8 Q. Did you deposit those items there?

9 A. Yes.

10 Q. Let's turn to the next page, 11 and 12. Do
11 you recognize that picture -- those pictures?

12 A. Um-hum.

13 MR. WALLACE: Mr. Easton, if you could
14 respond yes or no so the court reporter can take it
15 down.

16 MR. EASTON: Oh, okay. I'm sorry. Yes.

17 Q. (MR. BRENNER CONTINUING) And picture 11 we
18 see various tires. We also see various other debris
19 which I can't identify. No. 12 is basically a
20 picture of the tire. Did you deposit those items
21 there?

22 A. Yes.

23 Q. If you would, 13 and 14 for me, please.
24 Same there, did you deposit those items there?

1 A. Yes.

2 Q. Same thing, 15 and 16. Do you recognize
3 those pictures?

4 A. Yes.

5 Q. Is this the same site?

6 A. Yes.

7 Q. Did you deposit those items there?

8 A. Yes, sir.

9 Q. If you will, 17 and 18. Recognize the
10 pictures?

11 A. Yes.

12 Q. Same site?

13 A. Yes, sir.

14 Q. Did you deposit those items there?

15 A. Yes.

16 Q. Can you identify what's in picture 18?

17 What is that dark looks like liquid?

18 A. Yes, sir. I know what it is.

19 Q. What is it?

20 A. It's transmission fluid. Yes. I had a
21 barrel that ran over.

22 Q. You had a barrel that ran over so you know
23 how it got there?

24 A. Yes. It was an accident, but I know it

1 happened and I'm not denying it, you know.

2 Q. 19 and 20, if you would, please. Recognize
3 these pictures?

4 A. Well, that's the same spot.

5 Q. Same spot. So did you deposit those items
6 there?

7 A. Can I say something?

8 Q. Sure.

9 A. This, this --

10 Q. For the record you have to explain what you
11 are pointing to.

12 A. No. 17, 18, and 19 are all the same. I
13 know right where it's at. It's right on the corner
14 of my building. There is a barrel of oil that turned
15 over.

16 Q. Picture No. 20, what are we looking there?

17 A. Excuse me. It didn't turn over. The lid
18 was a little loose on it and it seeped out. It
19 didn't turn over. I'm sorry.

20 Q. Picture No. 20, what are we looking at
21 here?

22 A. That's a tire.

23 Q. What's in the tire? Can you identify that?

24 A. Well, it's probably water.

1 Q. If you will, 21 and 22.

2 A. Yes.

3 Q. Same site?

4 A. Um-hum.

5 Q. Are you the one who deposited those items
6 there?

7 A. Um-hum.

8 MR. WALLACE: Mr. Easton.

9 MR. EASTON: Yes. I'm sorry. Yes.

10 Q. (MR. BRENNER CONTINUING) Picture No. 22,
11 what are we looking at here?

12 A. That's the same -- that refers back to this
13 same picture here.

14 Q. Is that the transmission fluid you referred
15 to?

16 A. Yes.

17 Q. That's where it came from?

18 A. Yes.

19 Q. That barrel was full?

20 A. No. It wasn't full. It probably had five
21 gallon in it, you know.

22 Q. 23, 24, if you will, for me, please. Do
23 you recognize these pictures?

24 A. Yes.

- 1 Q. Same site?
- 2 A. 23 is the same thing.
- 3 Q. Same thing?
- 4 A. Yes.
- 5 Q. Is that transmission fluid?
- 6 A. Yes.
- 7 Q. Leaking out of a barrel?
- 8 A. Uh-huh.
- 9 Q. And 24, are you the one who deposited those
10 items there?
- 11 A. Yes, sir.
- 12 Q. Those are tires and looks like various
13 metal frames of some kind, is that correct?
- 14 A. Yes, sir.
- 15 Q. If you will, the last page photo No. 25.
16 Is this the same site as we've been talking about?
- 17 A. Yes, sir.
- 18 Q. Looks like that's two pieces of furniture?
- 19 A. That I didn't put.
- 20 Q. You didn't put that --
- 21 A. Somebody dumped it on me.
- 22 Q. What about the barrel? Do you see the
23 barrel in front of the couch?
- 24 A. Yes.

1 Q. If I may, I can give you this so you have
2 reference for it. What do you do for a living, Mr.
3 Easton?

4 A. I buy and sell equipment.

5 Q. What kind of equipment?

6 A. Farm equipment, miscellaneous equipment,
7 industrial equipment, whatever.

8 Q. What do you use this site we are talking
9 about for which these pictures you just looked at are
10 about?

11 A. To store the equipment.

12 Q. So you eventually sell those items?

13 A. Yes.

14 Q. To various whomever?

15 A. Yes.

16 Q. So you sell the used tires?

17 A. Yes.

18 Q. You sell the frames?

19 A. Well, I don't sell all the tires. I pay to
20 get rid of a lot of tires, you know. I've got a man
21 suppose to come get some this week.

22 Q. Do you sell any of the items?

23 A. Yes. I sell the equipment. Yes.

24 Q. Whether it be used or whatever condition

1 it's in?

2 A. Yes.

3 Q. Do you remember getting a citation earlier
4 than this one that we're here for today? The date of
5 the inspection on this one we're here for today is
6 May 22nd of 1996. Do you remember a prior citation
7 you received from the Jackson County Health
8 Department?

9 A. You mean before this?

10 Q. Well, let me show you this and tell me if
11 this -- can you tell me what that is? I'd like to
12 mark this as Plaintiff's Exhibit for introduction No.
13 1. Do you recognize that, Mr. Easton?

14 A. This isn't the same one for this?

15 Q. No. It is not, but do you recall these
16 circumstances that led to this citation? If it will
17 help you if you look at Page 2 of this right here.
18 If you look at those two paragraphs, that is what the
19 citation is for. Do you remember that now?

20 A. Okay. This would have been back before --
21 okay. Yes.

22 Q. I have an inspection date on this of June
23 30th of '95, so that's nearly a year prior to which
24 we're here today for?

1 A. Yes.

2 Q. Is this the same site as the pictures? Is
3 this citation for the same site as for what the
4 pictures you just looked at or is that another place?

5 A. Where was the first one from? Was it the
6 house or was it here?

7 MR. WALLACE: Mr. Easton, if you remember.

8 Q. (MR. BRENNER CONTINUING) Do you remember?

9 A. I can't tell you for sure. I'll be honest
10 with you. I can't tell you for sure.

11 Q. Are you in the business of repairing
12 automobiles?

13 A. I use to be.

14 Q. You use to be?

15 A. Yes.

16 Q. Do you still have -- is that this site here
17 for which we showed you the pictures?

18 A. No.

19 Q. Is this where your business was?

20 A. No.

21 Q. Is that a different site?

22 A. Yes.

23 Q. Is there debris at that site that is still
24 there? What's the condition of that site now?

1 A. This site?

2 Q. No. The one where you had your auto repair
3 business.

4 A. Well, it's still not done, but I am working
5 at both of them, you know. I've got receipts and
6 stuff.

7 Q. Are you still in the business of repairing
8 automobiles?

9 A. Not much. I do a little bit for just my
10 friends once in a while, but I mostly just buy and
11 sell equipment now.

12 Q. Would that account -- would your auto
13 repair business account for the transmission oil
14 which you talked about?

15 A. Yeah. That was from back -- see I use to
16 have a transmission shop. As a matter of fact, I was
17 right here on the corner for several years.

18 Q. Is that where some of that transmission
19 fluid came from?

20 A. Probably, probably.

21 Q. Was any of that transmission fluid -- had
22 that originated on site here for which these pictures
23 I've just shown you, or was the transmission fluid
24 from a different site?

1 A. It could have come from here, but I can't
2 really honestly answer because I -- over here I do
3 like change transmission fluid and stuff in tractors,
4 hydraulic fluids and stuff like that. I'm not going
5 to say whether it was here or here. It was one place
6 or the other, but I'm not going to say that
7 particular one if it came out of a tractor here or at
8 the other place. I'll be honest with you.

9 Q. What other kind of -- on this site here for
10 what I showed you the pictures on, what other kinds
11 of items are out there other than the tires?

12 A. Here?

13 Q. Yeah. Is there motor oil out there?

14 A. No.

15 Q. Is there batteries?

16 A. No.

17 Q. Other than tires and transmission fluid,
18 any other substances?

19 A. No, no. Yeah, but it's contained in
20 quarter inch barrels -- plastic barrels.

21 Q. What is that?

22 A. I have calcium chloride that goes in
23 tractor tires, but it's in plastic barrels that
24 thick. It can't get out.

1 Q. Is that approved or anything do you know?

2 A. Every tractor has got it.

3 Q. Do you know? I'm asking you. I don't
4 know. Do you know if that's the approved way of
5 storing that?

6 A. Yeah. See it will rust through metal. You
7 have to put it in plastic.

8 Q. Is that plastic container something that's
9 approved to hold that kind of substance?

10 A. I'm sure it is.

11 Q. What kind of plastic barrel is it?

12 A. Well, they're just plastic barrels about a
13 quarter inch thick.

14 Q. Do they contain calcium chloride or what do
15 they contain for?

16 A. Yeah. They're for calcium chloride is what
17 they're for. I misunderstood what your statement
18 for. They're for calcium chloride. That's what it
19 comes in originally.

20 Q. Since May 22nd of this year have you
21 deposited any additional items on this site?

22 A. No. I've removed a lot of stuff.

23 Q. You've removed a lot of stuff?

24 A. Yes.

1 Q. So would you say it's substantially cleaned
2 up? I'm trying to get an idea?

3 A. It's much better than those photos.

4 Q. So a lot of tires are gone?

5 A. Yes. There is still some there. I've
6 still got some there that I've got to get rid of, but
7 I've got rid of probably 250.

8 Q. Tires?

9 A. Yes.

10 Q. How many tires are out there, do you know?

11 A. Now, I can't really tell you honestly.

12 Q. Do you know could you take guesses as to
13 how many tires are out there?

14 A. Probably 75.

15 Q. Can you tell me how many tires were out
16 there at the time of the inspection?

17 A. Yeah. There was probably 350.

18 Q. 350?

19 A. Um-hum.

20 Q. They came from different areas, the tires?

21 A. Yes. I buy and sell a lot of tires for
22 farmers and that sort of thing.

23 Q. As to this transmission fluid that you
24 testified to, did you clean that up?

1 A. Yes.

2 Q. How did you clean that up?

3 A. I took a loader and picked it up.

4 Q. The dirt?

5 A. Yes.

6 Q. What did you do with the dirt?

7 A. Put it in a barrel.

8 Q. So it's still stored somewhere on the site?

9 A. Yeah.

10 Q. What about the leaky barrel? Has that been

11 corrected?

12 A. Oh, yeah. It's gone.

13 Q. The barrel is gone?

14 A. Yeah.

15 Q. Where did you haul that off to?

16 A. I think it went to the salvage yard. I

17 mean the barrel was already empty, you know.

18 Q. Because all the fluid had leaked out?

19 A. Right. Yeah.

20 Q. There is still tires out on the site today

21 though?

22 A. Yes.

23 MR. BRENNER: That's all the questions I

24 have for Mr. Easton.

1 MR. EASTON: I'm sorry.

2 MR. BRENNER: Go ahead.

3 MR. EASTON: Well, probably within three
4 weeks there won't be any tires, but I'm not going to
5 tell you a week because I've got a lot of irons in
6 the fire. I'm not going to tell you I'll have them,
7 but I'm going to say in three weeks there won't be
8 any tires.

9 MR. BRENNER: That's all the questions I
10 have for Mr. Easton.

11 MR. WALLACE: Why don't you go ahead and
12 proceed with Mr. Browning.

13 MR. BRENNER: Mr. Browning I would like to
14 call.

15 TESTIMONY OF MR. GEORGE BROWNING

16 DIRECT EXAMINATION

17 BY MR. BRENNER:

18 Q. Your name and occupation, sir?

19 A. George Browning. I'm an environmentalist
20 with the Jackson County Health Department.

21 Q. And how long have you been so employed?

22 A. 16 years.

23 Q. And what do you do in that capacity?

24 A. Currently I inspect permitted sites through

1 delegation agreement with the Illinois EPA and along
2 in that delegation agreement I also inspect open
3 illegal dump sites from complaints I have just like
4 this one here.

5 Q. Have you had any special training in this
6 area?

7 A. I received training from the Illinois EPA
8 regarding inspection procedures and criteria.

9 Q. And do you have any special certificates or
10 licenses pursuant to that?

11 A. I am certified as a nonhazardous waste site
12 inspector with EPA.

13 Q. Are you familiar with Gary Easton?

14 A. Yes, sir.

15 Q. And in what capacity are you familiar with
16 Mr. Easton?

17 A. I have conducted inspections at properties
18 operated by Mr. Easton on at least two separate
19 occasions.

20 Q. This is an exhibit I introduced awhile ago
21 while Mr. Easton testified. Can you identify that?

22 A. Yes, sir.

23 Q. What is that?

24 A. This pertains to an administrative citation

1 that was issued for some property which Mr. Easton
2 operates Easton Automotive which is located on the
3 Ava blacktop in Murphysboro.

4 Q. What was the result of that inspection?

5 A. Well, there were violations present there
6 regarding improper disposal of waste, tires being on
7 site.

8 Q. What was the citation for?

9 A. Specifically this particular one was for
10 allowing litter to be collected or dumped and causing
11 proliferation of disease vectors.

12 Q. What caused you to allege proliferation of
13 disease vectors?

14 A. Well, Mr. Easton has a used tire business
15 along with the automotive operation, and mosquitoes
16 like to breed in old tire casings, and these tires
17 were not stored in such a manner as to prevent water
18 from accumulating in them; therefore, during this
19 inspection and sampling procedures we discovered
20 multiple mosquito larvae present in those tire
21 casings.

22 Q. What led you to allege litter to be
23 collected or dumped at the facility in violation of
24 21P?

1 A. Primarily that refers to accumulation of
2 waste other than things, you know, not used in his
3 business at least in our interpretation, and at that
4 time we determined that there was an excessive amount
5 of materials on that site that were not related to
6 his business.

7 Q. Do you recall what those materials -- some
8 of those materials were?

9 A. I don't specifically because I don't have
10 the case file with me, but primarily I would -- from
11 my best recollection I would say there was the tire
12 casings were one and the metal materials, wiring,
13 some household type waste materials, lead acid
14 batteries, things of that nature.

15 Q. The respondent in that case was Easton
16 Automotive. Did there appear to be an automotive
17 shop out there or at one time operated an automotive
18 shop?

19 A. Yes. It looks like there was some repair
20 work of some type going on there. It could have been
21 on automotives. It could have been on other
22 machinery.

23 Q. What was the date of the inspection for
24 this citation?

1 A. This was June 30th of '95.

2 Q. Do you know if there was a penalty of a
3 thousand dollars? Do you know if that has been paid?

4 A. I don't know for sure if it has or not.

5 Q. Did you ever speak to Mr. Easton about
6 this?

7 A. Yes, sir. I did.

8 Q. What was said?

9 A. Basically I explained to him what the
10 violations were and what he would need to do to
11 correct it, and unfortunately that didn't get done so
12 we had to --

13 Q. Have you been out to this site, this one
14 the AC 96-8 that was about that site subsequent to
15 this date of this order of pollution control board?

16 A. I was there -- last time I was there was
17 October, I think October 27th of 1995.

18 Q. And had there been any changes to the site?

19 A. Not appreciably, no.

20 Q. You have not been out there since then?

21 A. No, sir. I haven't.

22 MR. BRENNER: I'd like to enter this as
23 Exhibit No. 1, if I may, please.

24 MR. WALLACE: Mr. Easton, do you have any

1 objections to Exhibit No. 1?

2 MR. EASTON: No, sir.

3 MR. WALLACE: Exhibit No. 1 is admitted.

4 Q. (MR. BRENNER CONTINUING) Do you remember
5 an inspection you made in May of this year, Mr.
6 Browning?

7 A. Yes, sir. I do.

8 Q. And what was the outcome of that
9 inspection, do you recall?

10 A. Well, it was an inspection that was
11 conducted as a follow-up to a prior inspection which
12 was conducted on October 18th, 1995, and that was a
13 property located on Grange Hall road which is another
14 site occupied and operated by Mr. Easton.

15 Q. I'm going to show you some photos here.
16 Can you look at these photos for me and tell me is
17 that the site you're talking about?

18 A. Yes, sir. It is.

19 Q. Is that the site that you conducted this
20 initial inspection in October of '95? Is that what
21 you said?

22 A. Yes. October of '95, correct, and this was
23 a follow-up to that inspection in May.

24 Q. We'll get back to that. Do you know the

1 result of your inspection in October of '95?

2 A. In October of '95 primarily we sent a
3 notice to Mr. Easton outlining the violations present
4 at that location with an explanation of what he would
5 need to do to correct it. Also during that
6 inspection I observed the containers of liquid
7 material which at that time had not been determined
8 their nature and contacted the Illinois EPA for
9 assistance regarding potential hazardous waste
10 material or at least special waste material. A
11 coinspection was done then October 27th, 1995, with
12 Illinois EPA representatives and myself to that site
13 to test those chemicals that were in those
14 containers. We then on that same day went and spoke
15 with Mr. Easton at his other location on the Ava
16 blacktop regarding that coinspection, and that's when
17 he had explained to us what was in those containers,
18 antifreeze and things like that.

19 Q. Then you made a subsequent inspection May
20 22nd?

21 A. Yes, sir.

22 Q. What was the result of that inspection?

23 A. Well, we were allowed to give a certain
24 amount of time to an individual to get a site cleaned

1 up, and I felt like we had given Mr. Easton enough
2 time to get that site into compliance; however, on
3 the May 22nd inspection, it was determined that the
4 site was not in compliance and he had not corrected
5 the violations previously noted from the October 18th
6 inspection.

7 Q. You mentioned he wasn't in compliance.
8 Compliance with what?

9 A. Compliance with the Illinois EPA Act.

10 Q. What specifically?

11 A. Well, it would be section 21P of the act
12 regarding litter scavenging and proliferation of
13 disease vectors.

14 Q. I have here an exhibit I'd like for
15 introduction purposes called Petitioner's Exhibit No.
16 2. Can you identify this exhibit for me?

17 A. Yes, sir.

18 Q. What are we looking at?

19 A. It's photographs that were taken during the
20 May 22nd, 1996 inspection.

21 Q. Do you know who took those photographs?

22 A. I did.

23 Q. Were they taken at or near a time of your
24 inspection?

1 A. Yes, sir.

2 Q. And do they fairly and accurately represent
3 what you saw that day?

4 A. Yes, sir. They do.

5 Q. Looking at pictures 9 and 10, if you will,
6 for me, please, what are we seeing in those pictures?

7 A. That is a shot of old tire casings, some on
8 rims, but majority were not on rims along with some
9 metal material and some equipment, apparently farm
10 equipment.

11 Q. If you will, pictures 11 and 12, what are
12 we seeing there?

13 A. Similar shots, same area entering the
14 property where there is tires, old scrap metal
15 materials, again tire casing, and picture 12
16 containing water which upon further examination
17 revealed mosquito larvae being present.

18 Q. Can you see some writing around that tire?

19 A. Yes, sir. I can.

20 Q. What does that writing say?

21 A. Leaking around rim.

22 Q. Did you put that there?

23 A. No, sir.

24 Q. Do you know who put that there?

1 A. I have no idea.

2 Q. That's just the way it was found in the
3 photograph?

4 A. Right.

5 Q. If you will, picture 13 and 14?

6 A. Again, more tire casings in both of those
7 photos. Photo No. 13 again indicates some water
8 standing in an old tire casing, and when that was
9 sampled again, it contained mosquito larvae.

10 Q. 15 and 16?

11 A. 15 again is a trailer with tire casings in
12 it along with some metal and car parts, things like
13 that. Picture 16 was an area that was near the
14 building that's located on this property, a surface
15 spill of some type of material. It had a petro
16 chemically smell to it, and that's again what
17 concerned me, and that's why I did contact the EPA
18 after that inspection regarding that, but anyway the
19 ground was heavily saturated from where this material
20 appeared to have leaked from where it came out of one
21 of the barrels located on the property.

22 Q. Do you know if that condition existed in
23 your October inspection?

24 A. On the October 18th inspection?

1 Q. Yes.

2 A. Well, I would have to refer back to my file
3 and see. I don't believe it was that bad. I do
4 believe there were some containers there at that time
5 that we sampled but they had not created the level of
6 ground contamination as in the May inspection.

7 Q. Picture 17 and 18 for me, please?

8 A. Again, this is another two photographs of
9 that same area. Picture 16 again further depicting
10 the spillage and the amount of surface area
11 contaminated by this spill. Also picture 19 has a
12 close-up shot of that contamination.

13 Q. Picture 21?

14 A. Picture 20 also is a tire casing with water
15 and mosquito larvae present in that as well. Picture
16 21 depicts an area of the property where there was a
17 lot of scrap metal stacked up and laying around the
18 property.

19 Q. What is that we're seeing in 21 right
20 there? Is that part of a vehicle?

21 A. I think it's -- it appeared to be a back
22 end of a vehicle of some kind, probably a truck bed
23 filled with material.

24 Q. What kind of material?

1 A. There was metal in there, hubcaps, various
2 pieces of scrap iron, that kind of thing. And 22
3 again is a drum that was on the property that
4 appeared to be leaking out some type of material.

5 Q. 23 and 24, please?

6 A. Again, another close-up shot of the -- near
7 the building where this oil material was leaking out
8 again causing a surface contamination.

9 Q. And 24?

10 A. 24 again just mainly to depict more tire
11 casings and an old metal material around the
12 property.

13 Q. Back in the background of that picture
14 appears to be a vehicle. Do you recall seeing that
15 there?

16 A. Yes.

17 Q. Is that an operable vehicle or do you
18 know? What is your opinion of that?

19 A. I would say that's probably not operable.
20 It's probably there for parts or something. I'm not
21 sure.

22 Q. 25?

23 A. 25 again just showing some old furniture
24 near the front of the property and an additional

1 barrel and metal material.

2 Q. Have you made any --

3 MR. BRENNER: I'd like to admit this into
4 the record as Exhibit No. 2 if I may, please.

5 MR. WALLACE: Any objection, Mr. Easton?

6 MR. EASTON: No.

7 MR. WALLACE: Complainant's Exhibit No. 2
8 is admitted into evidence.

9 Q. (MR. BRENNER CONTINUING) Have you made any
10 subsequent inspections of this site, Mr. Browning?

11 A. I made a field visit to the site yesterday.

12 MR. WALLACE: You made a what?

13 MR. BROWNING: Field visit observation.

14 Q. (MR. BRENNER CONTINUING) What did you see?

15 A. Primarily the site is still not in
16 compliance with Illinois EPA rules and regulations.

17 Q. Had there appeared to be any cleanup of the
18 site?

19 A. Well, not from my observations, but then
20 again I would be difficult to say for sure if
21 anything at all had been removed from there. There
22 appeared to have been some additional things added at
23 least by comparing to these pictures.

24 Q. What additional items are we talking about?

1 A. There was a truck there with an old camper
2 shell on it that was not there previously. Possibly
3 some more tire casings were there as well and --

4 Q. Mr. Easton had testified that he thought he
5 only had about 75 tires on the site today. Would you
6 agree with that statement?

7 A. Well, I'll be honest with you, I did not go
8 onto his property and survey it fully. I did a
9 perimeter evaluation. So to fully assess that I
10 would have had to do a more thorough --

11 Q. So you don't know?

12 A. That's correct.

13 Q. Can you estimate how many tires were on
14 that site when you made your inspection in May?

15 A. I would agree with Mr. Easton. There was
16 probably 300 or 400 tires there at least.

17 Q. Now, you're familiar with the other site
18 that this AC 96-8 citation was about?

19 A. Yes, sir.

20 Q. Have you noticed that any of your items
21 that you saw on that site had made it to this other
22 site that we're here today for?

23 A. No. I couldn't really tell if those items
24 had been moved to that site or not.

1 Q. What were the weather conditions like at
2 the time of your May 22nd inspection, could you
3 recall?

4 A. It was a dry day, warm.

5 Q. It was warm and dry?

6 A. Yes, sir.

7 Q. Had it been that way do you recall two,
8 three, four days after that?

9 A. I believe so. I don't think we had any
10 rain prior to the inspection.

11 Q. Did you talk to Mr. Easton about this site?

12 A. After this inspection, no.

13 Q. Have you talked to him at all about this
14 site?

15 A. I have discussed this matter with him on
16 the phone about what to do especially once he
17 received administrative citation. He wanted to know
18 what he could do.

19 Q. What did he say?

20 A. He asked what the procedures were, and I
21 told him that if he followed the bottom of the
22 citation and request a hearing he could do that and
23 apparently he did.

24 Q. In your opinion this site that we're here

1 today for, your opinion were any of those -- are any
2 of those items -- were they generated at that site?

3 A. In my opinion, no.

4 Q. What would be your opinion of the use of
5 that site today? What kind of site is that? What
6 I'm talking about is residential, commercial,
7 industrial?

8 A. I think it's probably commercial.

9 Q. Commercial property?

10 A. Um-hum.

11 MR. WALLACE: Yes?

12 MR. BROWNING: It had previously been
13 commercial property. Yes.

14 Q. (MR. BRENNER CONTINUING) Is there a house,
15 a residence on that property?

16 A. No. There are residences adjacent to and
17 close to that property, but the original use of that
18 property had been a saw mill years ago.

19 Q. And is there a building on that property?

20 A. Yes, sir. It is.

21 Q. What kind of building is that?

22 A. It appears to be a metal pole barn type
23 building.

24 Q. Do you know the approximate measurements?

1 A. I don't know.

2 Q. Any other buildings on that? Any other
3 real estate improvements, do you recall?

4 A. No, sir.

5 Q. Is there electricity to that site?

6 A. I'm not sure.

7 MR. BRENNER: I have no more questions of
8 Mr. Browning.

9 MR. WALLACE: Mr. Easton, do you have any
10 questions you wish to put to Mr. Browning?

11 MR. EASTON: No. One thing all this --

12 MR. WALLACE: Mr. Easton, at this point if
13 you have any questions to ask of Mr. Browning. I
14 will give you time to testify later. If you have
15 any --

16 MR. EASTON: No. No.

17 CROSS EXAMINATION

18 BY MR. WALLACE:

19 Q. Mr. Browning, did you receive a complaint
20 on this site?

21 A. Yes. I did from a citizen, citizen's
22 complaint. Correct.

23 Q. During your 16 years as an
24 environmentalist, how many inspections have you

1 performed?

2 A. Hundreds I suppose. I really don't have a
3 definite number.

4 Q. You mentioned that some of the tires were
5 still on rim. Does that make any difference to you?

6 A. Yes. It does, because again those
7 constitute a storage violation problem but not a
8 disease vector problem with holding water and
9 allowing breeding of mosquitoes.

10 Q. So I'm clear, the first inspection you
11 made was at a business run by Mr. Easton which you
12 termed Murphysboro/Easton Automotive site?

13 A. Yes, sir.

14 Q. And then in today's hearing we're looking
15 at Murphysboro/Gary Easton No. 2?

16 A. That's correct, sir.

17 Q. Is there a Gary Easton No. 1 or. . . .

18 A. Well, yeah. That's the way the EPA assigns
19 the numbers. I didn't have anything to do with it.
20 Primarily they did that as an identifying factor I
21 guess because it had the same name and mailing
22 address but a different physical location.

23 Q. So Easton Automotive --

24 A. Yes.

1 Q. -- may be EPA's No. 1?

2 A. Yes, sir. I would say so. Right.

3 Q. And Easton Automotive is located where?

4 A. On Ava blacktop which is about I guess a
5 mile or so from -- maybe a little more from the
6 Grange Hall road site, this site.

7 Q. And Gary Easton No. 2 is Grange Hall?

8 A. Grange Hall road, yes, sir.

9 Q. And Mr. Easton testified earlier he lives
10 on Ava road?

11 A. Yes. He lives at that site.

12 Q. The site No. 1 is his residence?

13 A. Yes. Correct.

14 Q. Do you know if he owns site No. 2?

15 A. I think ownership is in question. The
16 property is actually in the name of a Terry Bower
17 which I believe is -- is that your son-in-law?

18 MR. EASTON: Yes. That's my stepson.

19 MR. BROWNING: But when I spoke with Mr.
20 Bower he stated that the property is in his name but
21 Mr. Easton takes care of all the bills and Mr. Easton
22 is utilizing that property.

23 Q. (MR. WALLACE CONTINUING) On May the 22nd,
24 '96, when you were at Gary Easton No. 2, did you see

1 anyone at that time?

2 A. No, sir.

3 Q. And I don't know if you've got a copy but
4 in photo No. 10 there are some buildings behind the
5 debris or the tires and metal. Are those --

6 A. I think that front part there is actually
7 attached to the -- when you look straight back there
8 is sort of a gray looking building with a window.
9 That's the metal pole barn structure, and I believe
10 that front is attached to that pole barn. Is that
11 right?

12 MR. EASTON: Right. It's kind of an office
13 or show room.

14 MR. BROWNING: I think it's all one
15 structure.

16 MR. EASTON: Yes. It is.

17 MR. BROWNING: I don't believe there is
18 more than one building.

19 MR. EASTON: It's just attached onto the
20 front of it. It's like a little show room and an
21 office there.

22 Q. (MR. WALLACE CONTINUING) Now, on October
23 the 18th you looked at both the Ava road site and the
24 Grange Hall road site?

1 A. No, just the Grange Hall site.

2 Q. Grange Hall?

3 A. Yes.

4 Q. So I'm clear you gave or you visited the
5 Grange Hall site October 18th?

6 A. Yes.

7 Q. And issued a citation, is that what you
8 called it?

9 A. (Mr. Browning shakes his head from side to
10 side.)

11 Q. No?

12 A. No. What we did on that date is we sent a
13 notice, a warning notice to Mr. Easton regarding that
14 site because that was my first visit there and did a
15 follow-up site on October 27th with IEPA hazardous
16 waste team to determine whether or not any of that
17 material there posed a greater environmental threat
18 than I initially thought it did, and then on that
19 27th inspection we did go by and see Mr. Easton at
20 his Ava house, Ava property, but primarily he was
21 just sent a warning notice there indicating the
22 violations which is standard procedure of what was
23 wrong at the Grange Hall site and what he would need
24 to do to correct it.

1 Q. And you there again revisited on May 22nd?

2 A. Yes, sir.

3 Q. Your testimony was there had been little,
4 if any, cleanup?

5 A. That's correct.

6 MR. WALLACE: Thank you, Mr. Browning.

7 MR. BROWNING: Yes, sir.

8 MR. BRENNER: I'll rest, Mr. Wallace.

9 MR. WALLACE: Mr. Easton, if you wish to
10 make a statement concerning the Grange Hall road site
11 or anything in this matter, you may do so.

12 MR. EASTON: Well, to begin with when Mr.
13 Browning --

14 MR. WALLACE: Maybe I could help you a
15 little, you might review what this site is or what
16 your business is.

17 MR. EASTON: Well, what it is it's more or
18 less storage, you know. I buy -- well, for instance,
19 I may go to a sale and like a farm sale and buy used
20 farm equipment. I store it here and I fix it up and
21 resell it, you see, and then I also have some help on
22 this location like the couch. Nobody lives there,
23 and people think they just help theirselves. There
24 is a lot of things which I'm responsible for because

1 I own the property. Don't get me wrong. When Mr.
2 Browning first which was back when, was that October?

3 MR. BROWNING: October, yes, sir.

4 MR. EASTON: I made arrangements with a
5 fellow shortly after that to start cleaning it up. I
6 thought he was going to get it all in December. He
7 did, too. He ran into unforeseeable problems, and it
8 was actually this summer before he got onto it, but I
9 had receipts where he hauled several ton of stuff out
10 of there which was -- I'm not sure the date. I'll
11 have to look. Eighth month, eighth month, seventh --
12 starting -- okay. This one is when I started. I
13 didn't think he was going to make it so on the sixth
14 month I started hauling stuff. Then on the seventh
15 month -- no. Yeah. On the seventh month he started
16 and through the eighth month he hauled that much and
17 some more I don't have tickets for, and some tires I
18 got rid of I don't have tickets for, but this was
19 junk that was hauled away from there in the seventh
20 and eighth month which I thought he was going to get
21 like in January, but unforeseeable problems he
22 couldn't get to it and it was this long before he did
23 get to it, so that's why -- I mean all of this ran
24 over time on me, you know.

1 MR. WALLACE: All right. Continue if you
2 have anything else you wish to say.

3 MR. EASTON: Well, I mean it looks a lot
4 different now. There is one -- all of these pictures
5 concerning this fluid is from one -- is one spot, you
6 know. I mean it's not all over the property. Mr.
7 Browning will agree with that. It's all one spot.

8 MR. BROWNING: Yes. That's true.

9 MR. EASTON: Some of this stuff it depends
10 on how you lay stuff which this place got out of hand
11 on me. When I bought the place it was kind of junky
12 and my plans were -- plans don't always go like you
13 expect. I had big plans when I bought it to do
14 things. Instead I'm going to be honest with you, it
15 got worse, but we have hauled a lot of stuff out. It
16 looks a lot better than it did, much, much better
17 than these photographs, and we're still not done, you
18 know, but there is probably -- I didn't count there.
19 There is probably 30 or 40 ton of stuff that's been
20 hauled out right here that I have a record for.

21 MR. WALLACE: Is the building that's
22 located in this photo, is it vacant? Is it used at
23 all?

24 MR. EASTON: Yeah. I use it. Yes. I'm

1 sorry. I put better equipment inside of it to sell
2 which is farming equipment and stuff like that, you
3 know.

4 MR. WALLACE: Now, the tickets you profess
5 to have in your hand there, what are those? Are
6 those tickets to a landfill? Are they just trucking
7 tickets?

8 MR. EASTON: No. It's actually to Karco.

9 MR. WALLACE: To who?

10 MR. EASTON: Karco over here. It's a scrap
11 metal processor buyer.

12 MR. WALLACE: But you say that the earliest
13 that you started was July of '96?

14 MR. EASTON: I had done a little.

15 MR. WALLACE: I mean by these tickets. Is
16 the earliest you have them is July of '96?

17 MR. EASTON: Yes. I had made arrangements
18 with this fellow back in December I think, November
19 or December, and I don't know. He just couldn't get
20 to it, you know, and finally I did a little every
21 chance I got, and then finally he came in on the
22 sixth month and started working there, sixth month or
23 seventh month -- seventh month, excuse me. The site
24 does look -- to me it looks a lot better now. I mean

1 it's not all piled up. I do have -- I have a wagon
2 load of tires there now to be disposed of. I have
3 probably another 30 laying around that I've got to
4 dispose of that I should be done this week. I just
5 haven't gotten to it yet, and I'm not making excuses
6 but I've -- my wife and I both haven't worked the
7 last month here because she had her hand operated
8 on. I had to do all of her work and my work. It's
9 kind of hard to get it all done. There isn't enough
10 hours in the day. I would have been farther along
11 with this project, and then March she had open heart
12 surgery which I wasn't expecting which didn't help
13 this situation -- February or March.

14 MR. WALLACE: Okay. Mr. Easton, do you
15 have any other statements that you wish to put into
16 the record?

17 MR. EASTON: I am going to get it
18 finished. I definitely am. We started. We haven't
19 been as fast as I would like to be. I don't like the
20 looks of it any better than anybody else. I'd like
21 to have the place nice and neat and somebody come and
22 look at something, you know.

23 MR. WALLACE: I would note for the record,
24 Mr. Easton, that I understand that you have made

1 attempts to comply; however, the administrative
2 citation section of the Illinois Environmental
3 Protection Act does not take into account remedies
4 after the citation, so I want you to understand that
5 you may have taken steps to remedy it, but that may
6 have no bearing on the citation itself. The citation
7 has been issued, and the pollution control board will
8 rule upon the citation and the evidence presented as
9 of the date the inspection was made, so I don't want
10 you leaving here with any misunderstanding as to that
11 part of the statute. Mr. Brenner, did you have any
12 further questions?

13 MR. BRENNER: No. I do not.

14 MR. WALLACE: All right then. Thank you,
15 Mr. Easton, if you have nothing further that you wish
16 to say. Mr. Brenner, did you have anything further?

17 MR. BRENNER: No. I do not.

18 MR. WALLACE: Closing statements?

19 MR. BRENNER: I'll waive that.

20 MR. WALLACE: Mr. Easton, do you have
21 anything else you wish to say?

22 MR. EASTON: No, that I will get it
23 finished, you know. It was kind of slow getting
24 started, but I will get it finished as much for me as

1 anybody else. It would be better off -- I'm better
2 off when it's nice and clean so I can operate better.

3 MR. WALLACE: Mr. Brenner, the county did
4 allege four specific violations, is that correct?

5 MR. BRENNER: That's correct.

6 MR. EASTON: Do you need to see these or
7 anybody need to see these?

8 MR. WALLACE: I do not need to see them.
9 The board does not need to see them. Whether or
10 not. . . .

11 MR. BROWNING: You can send me copies of
12 those. I'll put them in your file.

13 MR. WALLACE: So you have -- I'm sorry. I
14 got off track here. There are four counts and
15 proceeding -- you proceeded with all four of those?

16 MR. BRENNER: Yes, sir.

17 MR. WALLACE: There will be nothing further
18 in this matter. The hearing record is closed.

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24

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF WILLIAMSON)

3

4 I, LEANNE R. MAUSEY, a Notary Public in and for
5 the County of Williamson, State of Illinois, DO
6 HEREBY CERTIFY that I was personally present at the
7 Illinois Pollution Control Board hearing at the time
8 and place set forth in the caption sheet hereof, that
9 the witnesses were first duly sworn to testify the
10 truth, the whole truth, and nothing but the truth of
11 their knowledge touching and concerning the matters
12 in this cause, and that I took down in stenotype the
13 questions propounded to the witnesses and the answers
14 given, and that the foregoing is a full and correct
15 transcript of such stenotype notes so made at such
16 time and place.

17 IN WITNESS WHEREOF, I have hereunto subscribed
18 my name and affixed my Notarial Seal on the day
19 of , 1996.

20

21 LEANNE R. MAUSEY, CSR, RPR
22 NOTARY PUBLIC

23

24

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