

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4 PEOPLE OF THE STATE OF ILLINOIS,

5 Petitioner,

6 vs.

No. PCB 97-031

7 JOHNNIE MAE HENDRICKS,

8 Respondent.

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13 Proceedings held on September 9, 1997, at

14 10:00 a.m., at the Illinois Pollution Control

15 Board, 600 South Second Street, Suite 402,

16 Springfield, Illinois, before the Honorable Michael

17 L. Wallace, Hearing Officer.

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A P P E A R A N C E S

STATE OF ILLINOIS, OFFICE OF THE ATTORNEY
GENERAL

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I N D E X

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E X H I B I T S

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P R O C E E D I N G S

(September 9, 1997; 10:00 a.m.)

HEARING OFFICER WALLACE: Pursuant to the direction of the Illinois Pollution Control Board, I now call Docket PCB 97-031. This is the complaint of the People of the State of Illinois versus Johnnie Mae Hendricks.

May I have appearances for the record, please.

MS. JACKSON: Amy Jackson, on behalf of the complainant.

HEARING OFFICER WALLACE: Thank you. Let the record reflect that notice was given of this hearing to the respondent, Johnnie Mae Hendricks, both by order of the Hearing Officer and publication by the Clerk of the Pollution Control Board. The publication notice was published in The Staunton Star Times, located in Staunton, Illinois, giving notice of this hearing on today's date and the Board's Springfield offices. The Hearing Officer has not been contacted by Ms. Johnnie Mae Hendricks or any representatives from here, and I don't believe the People have either.

MS. JACKSON: We have not.

1 HEARING OFFICER WALLACE: The rules of
2 the Pollution Control Board allow us to proceed
3 without the respondent. You may proceed, Ms.
4 Jackson.

5 MS. JACKSON: Thank you. Mr. Hearing
6 Officer, I do have a brief opening statement that I
7 would like to make.

8 HEARING OFFICER WALLACE: All right. Go
9 ahead.

10 MS. JACKSON: The People of the State of
11 Illinois come before this Board to present evidence
12 regarding the respondent's operation of an improper
13 tire storage treatment or disposal facility and the
14 violations of the Illinois Environmental Protection
15 Act resulting from such operation. It is important
16 to note at the outset that not only has the
17 respondent failed to appear for this hearing, but
18 she also failed to appear for a Section 31 (d)
19 meeting which was scheduled for June 28, 1996. She
20 has also failed to respond to any attempts by
21 complainant to discuss a resolution of this case.
22 In light of respondent's failure to appear for this
23 hearing, this Board should enter such order as is
24 appropriate pursuant to the directives of Section

1 103.220 of the Board's general provisions relating
2 to enforcement proceedings. Despite this default
3 by the respondent, the People will present
4 testimony and evidence sufficient to prove the
5 violations alleged against the respondent and to
6 provide guidance to the Board as to the appropriate
7 remedy in this case.

8 The People will present for the Board's
9 consideration the testimony of John Senjan,
10 S-E-N-J-A-N, an Environmental Protection Specialist
11 with the Illinois EPA's Bureau of Land Pollution
12 Control. Through John Senjan's testimony the
13 People will satisfy their burden of proof with
14 regard to the following violations:

15 Number one, the improper disposal of more
16 than 50 used or waste tires on property which is
17 not a sanitary landfill.

18 Number two, the failure to submit
19 required reports to the Illinois EPA.

20 Number three, the failure to comply with
21 the storage and reporting requirements for sites at
22 which more than 10,000 used or waste tires are
23 stored, treated or disposed.

24 Number four, the failure to have a

1 contingency plan.

2 Number five, the development and
3 operation of a waste storage or disposal operation
4 without an Illinois EPA issued permit.

5 Number six, causing or allowing the open
6 dumping of used or waste tires.

7 Number seven, causing or allowing
8 litter.

9 Number eight, causing or allowing the
10 open burning of used or waste tires.

11 Number nine, causing, threatening, or
12 allowing the discharge or emission of contaminants
13 into the environment so as to cause or tend to
14 cause air pollution.

15 Number ten, causing, threatening, or
16 allowing the discharge of contaminants into waters
17 of the State so as to cause or tend to cause water
18 pollution.

19 After considering the testimony and
20 evidence, we will ask this Board to find in favor
21 of the complainant, the People of the State of
22 Illinois, and in so finding, we will ask this Board
23 to impose an order requiring the respondent to
24 cease and desist from further violation of the Act

1 and associated Board regulations and ordering
2 respondent to pay a reasonable monetary penalty
3 pursuant to the directives of Section 42 (h) and
4 Section 33 (c) of the Illinois Environmental
5 Protection Act. Thank you.

6 HEARING OFFICER WALLACE: All right.
7 Thank you.

8 (Whereupon the witness was
9 sworn by the Hearing Officer.)

10 J O H N S. S E N J A N,
11 having been first duly sworn by the Hearing
12 Officer, saith as follows:

13 DIRECT EXAMINATION

14 BY MS. JACKSON:

15 Q Please state your name for the record.

16 A John Senjan.

17 Q Would you spell your last name, please?

18 A S-E-N-J-A-N.

19 Q With whom are you currently employed?

20 A With the IEPA.

21 Q That's the Illinois Environmental
22 Protection Agency?

23 A Yes.

24 Q How long have you been with the IEPA?

1 A Approximately five and a half years.

2 Q What position do you currently hold with
3 the Agency?

4 A Environmental Protection Specialist.

5 Q What are your job duties as an
6 Environmental Protection Specialist?

7 A I am a field inspector in solid waste.
8 Primarily, I do tires which include storage sites,
9 disposal facilities, open dumps, complaints, and
10 cleanup work.

11 Q And have you been an Environmental
12 Protection Specialist since joining the Agency?

13 A I started out as a trainee and worked up
14 the ranks to a Specialist III.

15 Q Would you tell us briefly about your
16 educational background?

17 A I have a Biology Degree from Eastern
18 Illinois University. I am currently working on my
19 Master's in Environmental Studies from Southern
20 Illinois University in Edwardsville.

21 Q When did you obtain your Bachelor's in
22 biology from Eastern?

23 A In 1987.

24 Q And do you have an anticipated completion

1 date for your Master's in Environmental Studies?

2 A Yes, it will be the fall of 1988.

3 Q Okay. 1998?

4 A 1998, yes.

5 Q Okay. Mr. Senjan, pursuant to your
6 duties as an Environmental Protection Specialist,
7 have you become familiar with a facility in
8 Macoupin County known as the Earp, E-A-R-P,
9 property?

10 A Yes.

11 Q How so?

12 A I was called out to do an inspection in
13 1995, and then followed that up with the fire that
14 occurred in 1996.

15 Q Can you describe for us where in Macoupin
16 County this property is located?

17 A It is approximately one mile south of the
18 Village of White City.

19 Q And what was your first contact with the
20 Earp property, as an Environmental Protection
21 Specialist?

22 A In 1995.

23 Q And you performed an inspection?

24 A I did an inspection, yes.

1 Q Who was the owner of the property at that
2 time?

3 A At that time it was Johnnie Mae
4 Hendricks.

5 Q She is the respondent herein?

6 A Yes.

7 Q How do you know Johnnie Mae Hendricks was
8 the owner of the property in 1995?

9 A Following the inspection, I went to the
10 Macoupin County Courthouse and retrieved a property
11 deed.

12 Q And from looking at that deed, were you
13 able to determine when the respondent first became
14 the owner of the property?

15 A Yes.

16 Q When was that?

17 A In 1990.

18 Q What is your understanding of the current
19 ownership of this property?

20 A It has been recently purchased by Alton
21 Entertainment.

22 Q Okay. So the respondent, based on your
23 understanding, no longer owns the property?

24 A That's correct.

1 Q Have you seen a deed or anything
2 indicating this transfer of ownership?
3 A Yes, I have.
4 Q Who is the current owner, once again?
5 A Alton Entertainment.
6 Q Okay. Have you had any contact with
7 Alton Entertainment regarding the Earp property.
8 A No, I have not.
9 Q When was it you became aware of this
10 change of ownership?
11 A Approximately one week ago.
12 Q Do you know when the change of ownership
13 occurred?
14 A In March of 1997.
15 Q So just this year?
16 A Just this year.
17 Q Now, you said your initial inspection of
18 this property was in 1995?
19 A Correct.
20 Q Can you give us a more specific date?
21 A I would have to look at my inspection
22 report.
23 Q Okay. If I hand you a copy of your
24 inspection report, will that refresh your

1 recollection?

2 A Yes.

3 (Whereupon a document was duly
4 marked for purposes of
5 identification as People's
6 Exhibit 1 as of this date.)

7 Q (By Ms. Jackson) I am going to go ahead
8 and hand you what we have already marked as
9 People's Exhibit 1. Once you have looked at that,
10 does that refresh your recollection?

11 A Yes, it does.

12 Q Can you tell us now what was the date of
13 your initial inspection of this property?

14 A April 7th, 1995.

15 Q Can you tell us what prompted this
16 initial inspection of the property?

17 A This was conducted -- this inspection was
18 conducted as a follow-up inspection to Jim Conlon,
19 formerly with the Agency, who did an inspection in
20 1990. Jim Conlon since then left the Agency. His
21 inspection resulted in an administrative warning
22 notice. My inspection was conducted as a follow-up
23 to that.

24 Q Have you reviewed that inspection report

1 of Jim Conlon, C-O-N-L-O-N, prior to going out
2 there in April of 1995?

3 A Yes, I did.

4 Q What did you note of significance from
5 that 1990 inspection?

6 A That virtually nothing had changed since
7 1990.

8 Q Let me go back. What made you -- what
9 prompted the need to go out and reinspect? What
10 was there in 1990 that required a reinspection?

11 A In 1990 Jim Conlon issued an
12 administrative warning notice.

13 Q For what?

14 A For open dumping, primarily tires.

15 Q Did that inspection indicate how many
16 tires were at the facility in 1990?

17 A Yes, approximately 50,000.

18 Q Mr. Conlon's report is something that
19 would routinely be prepared in the regular course
20 of Agency business, correct?

21 A Yes.

22 Q So in 1990, the inspection report
23 indicated that there were approximately 50,000
24 tires at the facility?

1 A Yes.

2 Q Now, the Illinois EPA currently has a
3 tire program, correct?

4 A Yes.

5 Q Did they have that program in 1990?

6 A Yes.

7 Q When did that program originate?

8 A I don't know.

9 Q Are you a part of that program now?

10 A Yes.

11 Q Is it fair to say that the facility, the
12 Earp property, was inspected in conjunction with
13 that program?

14 A Yes.

15 Q Now, when you inspect a tire facility,
16 such as the one at the Earp property, do you follow
17 a specific protocol?

18 A Yes.

19 Q Can you describe what that is?

20 A Basically walking the site, making a site
21 sketch, taking photographs, interviewing anybody
22 that is on site.

23 Q Did you follow this protocol in the
24 particular instance when you have inspected the

1 Earp property?

2 A Yes.

3 Q Did you generate an inspection report?

4 A Yes.

5 Q And that inspection report has been
6 marked as People's Exhibit 1, and that's -- you
7 have that in your hand?

8 A Yes.

9 Q Who prepared the report?

10 A I did.

11 Q And is this a report something that is
12 typically made in the regular course of Illinois
13 EPA business?

14 A Yes.

15 MS. JACKSON: Mr. Hearing Officer, I am
16 going to move to admit People's Exhibit 1 into
17 evidence.

18 HEARING OFFICER WALLACE: People's
19 Exhibit 1 is admitted.

20 MS. JACKSON: Thank you.

21 (Whereupon said document was
22 admitted into the record as
23 People's Exhibit 1 as of this
24 date.)

1 Q (By Ms. Jackson) Did you note anything
2 significant about the property during your April
3 1995 inspection?

4 A I noticed that the management standards
5 of the tires were bad.

6 Q How so?

7 A They didn't follow -- they broke many
8 regulations of the Illinois Pollution Control
9 Board, several violations of the Act.

10 Q How many tires were at the facility in
11 1995?

12 A Approximately 50,000.

13 Q How did you make that estimation?

14 A Based on experience.

15 Q You don't actually go out and count each
16 tire?

17 A It is impossible.

18 Q Okay. What types of things do you look
19 for in making that estimation?

20 A First you look at the terrain, the
21 ground. You look at what types of tires you are
22 dealing with. A car tire is a lot smaller than a
23 tractor tire. Then it is basically how much
24 surface area they are covering. There could be

1 hidden tires if there was a deep ravine or dip in
2 the earth or something like that.

3 Q Were these car tires mainly?

4 A Primarily.

5 Q Can you describe the appearance of the
6 tires in April of 1995?

7 A The tires were well worn. You could tell
8 they had been sitting there a long time the way
9 that -- the condition of the tires. They were
10 clean from weathering. Many of the side walls were
11 broken. Many of the beads were broken. Most of
12 the tread wear was gone.

13 Q Was there any cover material over the
14 tires?

15 A No.

16 Q What is a used tire?

17 A A used tire is basically a junk tire that
18 cannot be reused for anything else.

19 Q Would you consider the tires that you
20 observed on the respondent's property in 1995 to be
21 used tires?

22 A Yes.

23 Q Would these tires also be considered a
24 waste?

1 A Yes.

2 Q How so?

3 A That they cannot be used. They cannot be
4 reused, as in any sort of way. That is about it.
5 They cannot be reused.

6 Q Did they appear to have been disposed of?

7 A Yes.

8 Q Did the condition of the site concern
9 you, as you observed it in 1995?

10 A Yes.

11 Q How so?

12 A For potential fire. There were no
13 precautions taken to prevent it.

14 Q What types of precautions can be taken to
15 minimize the risk of fire at a facility like this?

16 A Surrounding the site with a fence to
17 prevent unauthorized access, building an earthen
18 berm around the site to prevent any runoff that may
19 occur in case of a fire.

20 Q Now, have you reviewed the Illinois EPA
21 records for this particular facility?

22 A Yes.

23 Q Based on your review of those records, do
24 you know whether this facility was ever issued any

1 type of permit for waste disposal?

2 A No, they were not.

3 Q Is this facility a sanitary landfill?

4 A No.

5 Q And according to your review of the
6 Illinois EPA records, has it ever been permitted as
7 a sanitary landfill?

8 A No.

9 Q And yet there was waste deposited at the
10 site?

11 A Yes.

12 Q Did you observe any materials that
13 appeared to have been discarded or littered around
14 the site?

15 A Yes.

16 Q What types of materials?

17 A There was domicile waste and some auto
18 parts, but primarily waste tires.

19 Q In your opinion, had these tires -- did
20 these tires appear to have been abandoned or
21 otherwise disposed of improperly at the facility?

22 A Yes.

23 Q Were these materials consistent with your
24 understanding of the term "litter"?

1 A Yes.

2 Q Now, you told us just a minute ago about
3 certain things that a property owner must do when
4 they dispose of or store a certain number of
5 tires. I think you referred to them as management
6 standards.

7 A Uh-huh.

8 Q Can you give us an example of what those
9 management standards are?

10 A First of all, they would need to supply
11 the Agency with a contingency plan. They would
12 also need to submit certain documentation, such as
13 an annual tire summary, disposal records; and they
14 would have to show that they are using tires in a
15 systematic way of once they bring them in to get
16 rid of them.

17 Q Okay. Has the Illinois EPA ever received
18 an annual tire summary or disposal records from the
19 respondent?

20 A No.

21 Q Have they received any types of reports
22 from the respondent related to this facility?

23 A No.

24 Q Can you explain for us, basically, what a

1 contingency plan is?

2 A It has a lot to do with site safety plan
3 in case of a fire who to call. It has to be the --
4 where the exits are, how they will handle a fire.
5 It has to be filed with local fire fighting
6 authorities.

7 Q Are you aware of whether a contingency
8 plan was ever prepared for the respondent's
9 facility?

10 A No.

11 Q You are not aware, or one was never
12 prepared?

13 A One was never prepared, to my knowledge.

14 Q The Illinois EPA does not have such a
15 contingency plan in their records for this
16 facility?

17 A Correct.

18 Q Do the management standards say anything
19 about separation of tires from vegetation?

20 A Yes.

21 Q What is that requirement?

22 A It is 50 feet from grass or brush or
23 overhanging trees.

24 Q Is that a management standard that would

1 apply to this particular facility?

2 A Yes.

3 Q Based on your inspection in 1995, had
4 respondent taken measures to insure that the tires
5 were separated from surrounding vegetation by at
6 least 50 feet?

7 A No.

8 Q Do the management standards have any
9 requirements regarding fencing or berms around the
10 tires?

11 A Yes.

12 Q Can you explain what those requirements
13 are?

14 A It would be a 6 foot fence with
15 controlled access, completely surrounding the
16 fence, monitored at all times. And an earthen berm
17 of no less than two feet in height completely
18 surrounding the site.

19 Q So the fence would need to be completely
20 surrounding the facility?

21 A True.

22 Q And the berm would also?

23 A Yes.

24 Q Was there a fence surrounding

1 respondent's facility in 1995?

2 A No.

3 Q Was there a 2 foot earthen berm
4 surrounding the respondent's facility in 1995?

5 A No.

6 Q Do you know whether respondent was ever
7 made aware of these deficiencies, as noted by you
8 in 1995?

9 A Yes.

10 Q How do you know that?

11 A Because I marked them on a checklist that
12 was sent to the respondent.

13 Q What are -- are there any risks
14 associated with failing to comply with these
15 management standards?

16 A Yes.

17 Q What are those risks?

18 A Potential infestation of disease vectors
19 and more importantly, probably fire.

20 Q In fact, didn't a fire occur at this
21 facility?

22 A Yes.

23 Q When did that fire occur?

24 A In 1996.

1 Q Do you know how the fire started in 1996?

2 A Yes.

3 Q Can you explain for us that?

4 A Yes. According to the local fire
5 fighting officials, the fire began in a rubbish
6 pile, and it spread quickly to a shed. The fire
7 fighters were concerned that the shed would -- the
8 wind was blowing towards the house. They were
9 afraid the fire would spread to the house. In the
10 process it did jump to the tires, and the tires
11 were completely engulfed in a matter of minutes.

12 Q We don't have any indication today as to
13 what initially started that fire?

14 A No.

15 Q And we are not presenting evidence that
16 the respondent started the fire, are we?

17 A No.

18 Q Were you present at all during the fire?

19 A Yes.

20 (Whereupon a document was duly
21 marked for purposes of
22 identification as People's
23 Exhibit 2 as of this date.)

24 Q (By Ms. Jackson) I am going to hand you

1 what we have already marked as People's Exhibit
2 Number 2.

3 A Okay.

4 Q I am going to ask that you confirm that
5 that is a copy of your report from April 9 of
6 1996.

7 A Yes.

8 Q Is April 9, 1996, the day the fire
9 started?

10 A Yes.

11 Q Who prepared this report that is People's
12 Exhibit Number 2?

13 A I did.

14 Q Is this the type of report that is
15 typically made in the regular course of Illinois
16 EPA business?

17 A Yes.

18 MS. JACKSON: I would move that People's
19 Exhibit 2 be entered into evidence.

20 HEARING OFFICER WALLACE: People's
21 Exhibit Number 2 is admitted.

22 (Whereupon said document was
23 admitted into the record as
24 People's Exhibit 2 as of this

1 date.)

2 Q (By Ms. Jackson) Are there photographs
3 attached to that report?

4 A Yes.

5 Q Did you take those photographs?

6 A Yes.

7 Q Are those photographs -- if you take a
8 minute just to look at them quickly, are they true
9 and accurate representations of what you observed
10 on April 9, 1996?

11 A Yes.

12 Q John, can you describe for us what you
13 observed with regard to the fire on that date? And
14 if you need to, please refer to your photographs.

15 A Okay. If you look at the very first
16 photograph, roll 115, photo number one, it is taken
17 -- I was working the tire collection in
18 Litchfield, Illinois, and I got a call that there
19 was a tire fire at the Earp site. I took this
20 photograph from Litchfield, and it is approximately
21 14 to 15 miles away from the site, as you can see
22 the smoke from -- as you continue to go through, I
23 am getting closer to the site. I am taking these
24 photographs from my vehicle, as I traveled to the

1 site.

2 Q Can you tell us which photographs you are
3 talking about?

4 A Yes. Again, starting with roll 115,
5 photo number one, and then as you go through the
6 same roll photo two, the same roll, photo three,
7 photo four. If you look at roll 115, photo number
8 twelve, that was when I arrived at the site. This
9 was taken across a grass field. I think you can
10 see the size of the smoke plume, if you look in the
11 lower left-hand corner that -- that is a fire
12 truck, and you can see the relation of the smoke
13 when compared to the fire truck. It is quite
14 large.

15 Q Were you able to determine -- now, you
16 actually went up to the site on that day, correct?

17 A Yes.

18 Q Were you able to determine how many tires
19 were consumed?

20 A Yes.

21 Q How many, approximately?

22 A Approximately -- I found that out on the
23 second day.

24 Q Okay.

1 A I returned to the site on April 10 to
2 investigate, and I would say 99 percent of the
3 tires were consumed.

4 Q Now, you told us in 1995 you estimated
5 that there were approximately 50,000 used tires?

6 A Yes.

7 Q Did that -- did the total number of tires
8 that were at the site change at all, based on your
9 observations in April of 1996?

10 A Yes, it did.

11 Q How so?

12 A I believe that there were fewer tires
13 than originally estimated.

14 Q How many?

15 A I estimated between 30,000 and 40,000.

16 Q Okay. So still in excess of 10,000
17 tires?

18 A Yes.

19 Q Who responded to the fire?

20 A The first respondent was the Mount Olive
21 Fire Department. After that there were six or
22 seven other fire departments that responded;
23 Dorsey, Bunker Hill, Staunton, Litchfield, and a
24 few others that I can't really remember.

1 Q Were these emergency response teams able
2 to control the fire?

3 A No, they were not.

4 Q Why not?

5 A The fire was too well engulfed, and it
6 was too hot. They did not have the efficient
7 equipment to put out the fire.

8 Q So what happened to the fire?

9 A Well, they basically put on all the water
10 that they could carry to the site, and it didn't
11 work. Then finally we made the decision -- Jim
12 Pitchford and I -- Jim Pitchford works for the
13 Macoupin County Emergency Response. We made the
14 decision to have the fire fighters stop applying
15 water, because it was doing no good, and we let the
16 fire burn.

17 Q You said that they brought all the water
18 -- they used all the water they could bring to the
19 site. Do you have any idea how much water that
20 was?

21 A Several thousand gallons. That's all I
22 can say.

23 Q And if the water was not helping to put
24 out the fire, what was happening to the water?

1 A Some of the water was visible departing
2 the site as steam, because the fire was so hot that
3 when the water hit the tires it would turn into
4 vapor. Later, as the day progressed, I was able to
5 approach the fire from the east when the wind was
6 blowing out of east so that the smoke was not on
7 me, and I noticed that a lot of the water was
8 coming from -- the water actually went through the
9 tires and was dissipating directly from underneath
10 the tires, running off, free-flowing.

11 Q So there was water running off from the
12 pile of tires?

13 A Yes.

14 Q Where was this runoff going?

15 A The runoff -- the tires were -- a large
16 pile of the tires were located in a crevice that
17 led into a small creek. It was a natural flow, and
18 the water was running from the tire pile directly
19 into a small creek which led to the Staunton
20 Reservoir.

21 Q When you saw this runoff leaving the
22 burning tires and entering this creek that led to
23 the Staunton Reservoir, were you concerned at all
24 about that?

1 A Yes, that was my first concern. The
2 Staunton Reservoir is drinking supply for the City
3 of Staunton.

4 Q Was there anything being done to prevent
5 this runoff from entering the creek?

6 A Not at that time.

7 Q In fact, is that one of the things that a
8 berm, an earthen berm would be used for?

9 A Yes.

10 Q And there were no earthen berms on this
11 date?

12 A Correct.

13 Q Now, John, you are familiar with the
14 definition of a Water of the State, aren't you?

15 A Yes.

16 Q Would this creek that you are talking
17 being about be considered a Water of the State in
18 your opinion?

19 A Yes.

20 Q Are you also familiar with the
21 regulations prohibiting water pollution?

22 A Yes.

23 Q In your opinion, would the runoff from
24 this tire fire be of such a nature and extent as to

1 cause or tend to cause water pollution?

2 A Yes.

3 Q How so?

4 A When a tire does not combust completely,
5 it has a tendency to melt. A tire is composed of
6 primarily oil. When it melts, the oil can flow
7 right into the water, and what other properties
8 that are picked into the tire can also melt into
9 the oil.

10 Q And you were concerned that that
11 contaminated runoff was then entering the receiving
12 creek?

13 A Yes.

14 Q Okay. Now, aside from this discharge of
15 runoff into the drainage creek, there was also a
16 discharge of smoke into the atmosphere, correct?

17 A That's correct.

18 Q That is visible in some of the
19 photographs you have referred to?

20 A Yes.

21 Q Can you describe for us the appearance to
22 you on that day of the smoke?

23 A Thick and black.

24 Q Was it difficult to breathe?

1 A If you were in the smoke plume, yes.

2 Q And were you in the smoke?

3 A No.

4 Q Did the fire fighters wear respirators?

5 A Yes, they did. The ones that didn't
6 complained of the smoke.

7 Q Do you know how many -- you said the fire
8 just was allowed to burn itself out?

9 A Yes.

10 Q Do you know how many days it took for
11 this fire to burn itself out?

12 A By the second day it was primarily burnt
13 out. There was still some smoldering hot spots.

14 Q Did you have an occasion to revisit the
15 site on approximately April 16th or 17th for a
16 follow-up inspection?

17 A Yes, I did.

18 Q At that time was the fire smoldering at
19 all?

20 A Yes, there were still spots that were
21 smoldering.

22 Q Was this fire or the smoke contained in
23 any way?

24 A No, it was not.

1 Q Now, you are familiar with regulations
2 regarding air pollution, are you not?

3 A Yes.

4 Q In your opinion, was the discharge of
5 smoke from this tire fire of such a nature and
6 extent as to cause or tend to cause air pollution?

7 A Yes.

8 Q Can you explain why?

9 A Because I am familiar with the properties
10 that compose a tire. I know there are several
11 carcinogens in a tire, and when it becomes airborne
12 it is released into the atmosphere.

13 Q What are those carcinogens?

14 A I don't know exactly.

15 Q Okay. Are there other constituents that
16 you can name today that would be typically found in
17 smoke from a tire fire or emissions from a tire
18 fire?

19 A Lead. Without looking at my research
20 back in my office I couldn't say.

21 Q Okay. Were you able to observe whether
22 any surrounding plant or animal life was impacted
23 by this fire?

24 A Yes.

1 Q Was there an impact?

2 A Yes. The woods that lay to the east,
3 southeast and south of the tires became -- were on
4 fire. As I went and looked for water
5 contamination, I ran into the entire Litchfield
6 Fire Department who were out in the woods fighting
7 the brush fire.

8 Q Were there some trees that were destroyed
9 by the fire?

10 A Yes.

11 Q Do you have any idea how many?

12 A No.

13 Q In your opinion, John, could this fire
14 and the resulting damage have been mitigated in any
15 way?

16 A Yes.

17 Q How so?

18 A By using management standards at the tire
19 site such as the earthen berm.

20 Q Did the lack of a contingency plan also
21 play a role in the resulting damage from the fire?

22 A Possibly.

23 Q Once the fire had burned out, was there
24 anything left of the 30,000 to 40,000 tires that

1 were estimated at the site?

2 A Yes.

3 Q What?

4 A A lot of tire-derived wire and steel
5 rims.

6 Q Would it be unusual to see steel rims
7 remaining after -- are used tires still on rims
8 when they are disposed of?

9 A In a typical tire pile like this it is
10 not unusual to find several hundred, if not several
11 thousand, tires still mounted on rims.

12 Q So it was not unusual to find rims
13 remaining after this fire?

14 A No.

15 Q Do you know what was done with these
16 rims?

17 A Yes. The people living in the Hendricks
18 household took the rims and they piled them in a
19 pickup truck and they took them to a local scrap
20 yard and sold them.

21 Q Do you know how much of the rims -- is
22 there a going price?

23 A At that time it was approximately \$7.00 a
24 ton.

1 Q Do you know how many tons of rims were
2 left at the site?

3 A No, I do not.

4 Q To the best of your knowledge, did they
5 sell all of these remaining rims, then?

6 A Yes.

7 Q Do you know what was done with that money
8 that they made from selling the rims?

9 A No.

10 Q And, finally, has the respondent been the
11 subject of any other enforcement actions by the
12 Illinois EPA at this particular facility?

13 A No.

14 Q Okay. Just a couple of questions to
15 follow up and clarify. We talked about these used
16 tires being on rims, that there may have been some
17 on rims?

18 A Yes.

19 Q Would it be fair to say that a vast
20 majority of the tires you observed were off of the
21 rims?

22 A Yes.

23 Q And then we have been calling this
24 facility the Earp property. Do you know why it has

1 been referred to as the Earp property?

2 A The original owner was a gentleman called
3 J. T. Earp.

4 Q That's where the name came from?

5 A Yes.

6 Q Do you know did the respondent, Johnnie
7 Mae Hendricks, obtain the property from Mr. Earp?

8 A Yes, according to the property deed that
9 I found in 1990.

10 Q Okay.

11 A She had obtained it from Mr. Earp.

12 MS. JACKSON: Okay. Thank you.

13 EXAMINATION

14 BY HEARING OFFICER WALLACE:

15 Q Mr. Senjan, do you know who placed the
16 tires there?

17 A Yes, it was Mr. Earp.

18 Q And did he operate any kind of --

19 A He had a salvage yard.

20 Q Is that what it was?

21 A A salvage yard, slash scrap yard, slash
22 junkyard.

23 Q At this Earp property?

24 A Yes.

1 Q Okay. Had there been any removal of any
2 of the tires at all over the past several years?

3 A Not to my knowledge.

4 Q And it is your understanding that the
5 current respondent, Johnnie Mae Hendricks,
6 purchased the property with the tires on it?

7 A Yes.

8 Q The respondent, did she live on this
9 property, or do you know?

10 A During the fire or --

11 Q Well, say, from the time she purchased it
12 in 1990 until the fire in 1996, do you know if --

13 A Yes.

14 Q She did reside on the property?

15 A I know for sure in 1995 and 1996 she was
16 there. I believe in 1990 she was there, but I
17 wasn't there for sure myself.

18 Q You spoke with her on your first
19 inspection?

20 A Yes.

21 Q In your estimation, since you have done
22 two inspections, did the respondent make any
23 attempt to cooperate and do any removal at all?

24 A She was more than willing to get rid of

1 the tires, but she didn't have the financial means
2 to do so.

3 Q Does the Agency have any programs for
4 such a situation?

5 A We do have a program, but we only allow a
6 person to bring up to 1,000 tires to one of our
7 collections, or we may even go pick up. But it is
8 only 1,000. It was well in excess of 1,000.
9 Usually, it is only the last 1,000 we will take.

10 Q Did you or anyone from the Agency have
11 any plan, work with her in any way --

12 A Yes.

13 Q -- that you know of?

14 A We were in the process of I guess you
15 would say filing for a Section 55(3)(d) of the Act,
16 or we were going to do an enforcement clean up on
17 the property or the Agency was going to clean up
18 the whole thing. But it -- we were in the process
19 of it, and it never got done before the fire
20 occurred.

21 Q Was the residue of the fire cleaned up at
22 all?

23 A I do not know.

24 Q You have not been out there since the

1 fire?

2 A No, I haven't.

3 Q Would there have been a large mass of
4 black, oily material left on the ground?

5 A Immediately following the fire,
6 approximately one week after, when I went there
7 again, there was -- the ground was absolutely
8 scorched black, from definite residue from the fire
9 and tire wire everywhere, wherever the tires laid.
10 I made the comment that it was neat to see tires
11 completely burned. There wasn't a half tire or
12 part of a tire. They were just gone. It burned
13 that hot.

14 Q It is certainly not the recommended
15 disposal method, right?

16 A No.

17 HEARING OFFICER WALLACE: All right.

18 Thank you, Mr. Senjan.

19 Anything further?

20 REDIRECT EXAMINATION

21 BY MS. JACKSON:

22 Q Just to clarify, are you familiar with
23 the relationship between Mr. Earp and the
24 respondent?

1 A Yes, Mr. Earp was her father.

2 Q Do you know whether, in the Illinois EPA
3 files that you have reviewed, whether Mr. Earp was
4 ever issued any permits for this facility?

5 A No, he was not issued any permits for
6 landfilling or tire storage or anything of that
7 nature.

8 Q Okay. Do you know whether Ms. Hendricks
9 resided on this property prior to 1990?

10 A I do not know.

11 MS. JACKSON: Okay. That's it.

12 HEARING OFFICER WALLACE: All right.

13 Thank you, Mr. Senjan.

14 Any further evidence?

15 MS. JACKSON: That's all we have.

16 HEARING OFFICER WALLACE: All right. Do
17 you wish to file any post hearing?

18 MS. JACKSON: I would like to file just a
19 short brief just to clarify some of the issues.

20 HEARING OFFICER WALLACE: All right.

21 Let's go off the record.

22 (Discussion off the record.)

23 HEARING OFFICER WALLACE: Back on the

24 record.

1 The People have requested to file a short
2 post hearing brief, and 30 days will be allowed
3 from the time the transcript is back.

4 Pursuant to the rules, I find no
5 credibility problems with Mr. Senjan's testimony.
6 The two exhibits are admitted, and this record is
7 closed. Thank you.

8 (Exhibits 1 and 2 were retained
9 by Hearing Officer Wallace.)

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E
4

5 I, DARLENE M. NIEMEYER, a Notary Public
6 in and for the County of Montgomery, State of
7 Illinois, DO HEREBY CERTIFY that the foregoing 44
8 pages comprise a true, complete, and correct
9 transcript of the proceedings held on the 9th of
10 September A.D., 1997, at 600 South Second Street,
11 Suite 402, Springfield, Illinois, in the case of
12 The People of the State of Illinois v. Johnnie Mae
13 Hendricks, in proceedings held before the Honorable
14 Michael L. Wallace, Hearing Officer, and recorded
15 in machine shorthand by me.

16 IN WITNESS WHEREOF I have hereunto set my
17 hand and affixed my Notarial Seal this 18th day of
18 September A.D., 1997.

19

20

21 Notary Public and
22 Certified Shorthand Reporter and
Registered Professional Reporter

23 CSR License No. 084-003677
My Commission Expires: 03-02-99

24