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BEFORE THE ILLINOIS
POLLUTION CONTROL BOARD

ILLINOIS EPA,)
Petitioner,)
versus) AC 02-16
BRAD KRSTIC,)
Respondent.)

The following is a transcript of proceedings from
the hearing held in the above-entitled matter, taken
stenographically by Jennifer E. Johnson, CSR, RPR, RMR, a
notary public within and for the County of Tazewell and
State of Illinois, before STEVEN C. LANGHOFF, Hearing
Officer, at 100 Southeast Third Street, Third Floor
Courtroom, Aledo, Illinois, on the 21st day of February
2002 A.D., scheduled to commence at the hour of 10:00
a.m.

1 A P P E A R A N C E S:

2 HEARING TAKEN BEFORE:

3 ILLINOIS POLLUTION CONTROL BOARD

4 600 South Second Street, Suite 402

 Springfield, Illinois 62704

5 BY: STEVEN C. LANGHOFF, HEARING OFFICER

 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

6 BY: MICHELLE M. RYAN, ESQUIRE

 1021 North Grand Avenue East

7 Springfield, Illinois 62794

 On Behalf of the Petitioner.

8 MARK A. APPLETON, ESQUIRE

 129 East Main Street

9 Aledo, Illinois 61231

 On Behalf of the Respondent.

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1 HEARING OFFICER: Okay. Good morning,
2 everyone. My name is Steven Langhoff; I'm the Pollution
3 Control Board hearing officer who has been assigned to
4 this matter, and I will be holding the hearing today.

5 This is AC 02-16, Illinois Environmental
6 Protection Agency versus Brad Krstic. For the record, it
7 is Thursday, February 21st, 2002, and we are beginning at
8 10 a.m.

9 Are there any members of the public present
10 today?

11 I want to note for the record that there are
12 no members of the public present. Members of the public
13 are encouraged and allowed to provide public comment if
14 they so choose. I will ask for public comment at the end
15 of the hearing.

16 On October 22nd, 2001, the Illinois
17 Environmental Protection Agency or -- Agency issued an
18 administrative citation to Mr. Brad Krstic. On November
19 26, 2001, Mr. Krstic filed a petition for review with the
20 board. The board accepted this matter for hearing on
21 December 3rd, 2001. At issue in this case are allegations
22 made in an administrative citation filed by the Agency.
23 The violations alleged in the administrative citation are
24 for operating an open dump in a manner resulting in litter

1 and open burning in violation of 21(p)(1) and 21(p)(3) of
2 the Environmental Protection Act. That's 415 ILCS
3 5/21(p)(1) and 5/21(p)(3). The alleged violations
4 occurred at a facility located at 240th and Route 17 in
5 Aledo, Mercer County, Illinois.

6 I want to take a brief moment to let you know
7 what is going to happen today and after our proceeding
8 today. You should know that it is the Pollution Control
9 Board and not me that will be making the final decision in
10 this case. My job as a hearing officer requires that I
11 conduct this hearing in a neutral and orderly manner so
12 that the board has a clear record of the proceedings held
13 here today. It is also my responsibility to assess
14 credibility of any witnesses giving testimony today, and I
15 will do so on the record at the conclusion of the
16 proceedings. We will begin with an opening statement from
17 the parties, if they so choose, and then we will proceed
18 with the Agency's case, followed by Mr. Krstic having an
19 opportunity to put on a case on his behalf. We will
20 conclude with any closing arguments that the parties wish
21 to make, and then we will discuss a briefing schedule
22 which will then be set on the record at the conclusion of
23 the proceedings.

24 The board's procedural rules in the Act

1 provide that members of the public shall be allowed to
2 speak or to submit written statements at hearing. Any
3 person offering such testimony today shall be subject to
4 cross-examination by both of the parties. Any such
5 statements offered by members of the public must be
6 relevant to the case at hand. I will call for any
7 statements from the members of the public at the
8 conclusion of the proceedings.

9 This hearing was noticed pursuant to the Act
10 and the board's rules and regulations and will be
11 conducted pursuant to Sections 101.600 through 101.632 and
12 Part 108 of the board's procedural rules.

13 At this time, I'll ask the parties to make
14 their appearances on the record, starting with the Agency.

15 MS. RYAN: Michelle Ryan, special assistant
16 attorney general for the Agency. I have the hearing
17 officer's copy and some other copies -- sorry -- of my
18 actual formal appearance which I did file with the board a
19 couple days ago. I think all these pages are the same,
20 but they seem to be in a different order.

21 Do you have three pages there?

22 MR. APPLETON: Yep.

23 MS. RYAN: No, you have two of the same, don't
24 you? Sorry. Hold on.

1 Do you have two pages that are the same?

2 Sorry. Thank you. There you go.

3 HEARING OFFICER: Thank you, Ms. Ryan.

4 Mr. Appleton, would you make an appearance for the record,
5 please?

6 MR. APPLETON: Mark Appleton, appearing on
7 behalf of Brad Krstic. I don't have a written entry of
8 appearance, but --

9 HEARING OFFICER: That's fine. I've seen you
10 filed your appearance when you filed the petition.

11 MR. APPLETON: Yes, I did.

12 HEARING OFFICER: Okay. Thank you. Do we
13 have any preliminary matters that we need to discuss on
14 the record before we begin?

15 MS. RYAN: I do.

16 HEARING OFFICER: Okay. Ms. Ryan?

17 MS. RYAN: I would like to move to exclude the
18 testimony of the three Mercer County board witnesses that
19 Mr. Appleton presented at our prehearing status last
20 Tuesday. Based on what he described their testimony to
21 be, we don't believe that testimony will be relevant to
22 the issues at matter in this case. And furthermore, it
23 appears that they all three are testifying about the same

24 matter, in which case at least two of them would be

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1 repetitive and cumulative.

2 HEARING OFFICER: Okay. Thank you. I'm going
3 to deny your motion. Anything further?

4 MS. RYAN: No.

5 HEARING OFFICER: Mr. Appleton?

6 MR. APPLETON: No, Your Honor.

7 HEARING OFFICER: Thank you. Please feel free
8 to call me Mr. Langhoff or Mr. Hearing Officer, whatever
9 -- whichever you prefer.

10 Any other outstanding or any prehearing
11 motions?

12 MS. RYAN: No.

13 MR. APPLETON: No.

14 HEARING OFFICER: Okay. Thank you. Would the
15 Agency like to give a brief opening statement on behalf of
16 her client?

17 MS. RYAN: Thank you, Mr. Hearing Officer. We
18 believe that the testimony today will show that on August
19 23rd, 2001, open dumping resulting in litter and open
20 burning in violation of 21(p)(1) and 21(p)(3) of the Act
21 were observed on Mr. Krstic's property; that Mr. Krstic
22 caused or allowed that open dumping resulting in these --
23 in the litter and open burning; and that there is no

24 defense to these violations that will be presented here

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1 today.

2 HEARING OFFICER: Anything further?

3 MS. RYAN: No.

4 HEARING OFFICER: Thank you. Mr. Appleton?

5 MR. APPLETON: Yes. We believe that after a
6 full hearing of all the evidence, the hearing officer will
7 be able to conclude that the incidents that occurred on
8 that date in question did not amount or come -- rise to
9 the level of open dumping or permitting litter upon the
10 respondent's property. And at the conclusion of that
11 evidence, we're going to ask that the hearing officer make
12 a finding of no violation.

13 HEARING OFFICER: Okay. I'm not allowed to
14 make that finding, but you can -- you can make that motion
15 and present it to the board.

16 MR. APPLETON: Thank you.

17 HEARING OFFICER: Thank you.

18 Miss Ryan, do you want to call your witness?

19 MS. RYAN: The Agency calls Gene Figge.

20 HEARING OFFICER: Mr. Figge, would you have a
21 seat right up here, please?

22 THE WITNESS: Tight in here.

23 HEARING OFFICER: And, Ms. Johnson, would you
24 swear in the witness, please?

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1 (Witness sworn.)

2 HEARING OFFICER: Thank you.

3 R. EUGENE FIGGE,

4 called as a witness, after being first duly sworn, was
5 examined and testified upon his oath as follows:

6 DIRECT EXAMINATION

7 BY MS. RYAN:

8 Q. Can you spell your name for the record and
9 for the court reporter?

10 A. R., period, Eugene, E-u-g-e-n-e, Figge,
11 F-i-g-g-e.

12 Q. What is your occupation, Mr. Figge?

13 A. I'm an environmental protection specialist
14 employed in the Peoria region for the Illinois
15 Environmental Protection Agency.

16 Q. How long have you been in that position?

17 A. 12 years.

18 Q. What are your duties as an environmental
19 protection specialist?

20 A. I conduct field inspections in response to
21 citizens' complaints and as a general course of my work.

22 Q. What type of field inspections do you

23 concentrate in?

24 A. Primarily concerning used tires.

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1 Q. What's your educational background?

2 A. I have a Bachelor's of Arts in biology from
3 Monmouth College.

4 Q. And do you have any additional training
5 besides your bachelor's degree?

6 A. I've gone to numerous training courses which
7 the Agency encourages its employees to participate in
8 over the years.

9 Q. And what type of subject matter do those
10 training courses involve?

11 A. Wide range. Hazardous waste and management
12 thereof, solid waste and the management thereof. I've
13 had a course on fighting fires concerning used tires and
14 also various courses on insects which may breed in used
15 tires.

16 Q. Are you familiar with the facility that we
17 are calling the Krstic property in Green Township that's
18 at issue in this case today?

19 A. Yes, I am.

20 Q. And where is that property located?

21 A. It's located along Route 17 at the

22 intersection of -- can't recall the exact street number.

23 Q. And what county is that in?

24 A. Mercer County.

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1 Q. How many inspections of that property have
2 you conducted?

3 A. One.

4 Q. Who owns that property?

5 A. Brad Krstic.

6 Q. And how did you determine that?

7 A. After speaking with Mr. Krstic, he stated
8 that he had recently purchased the property. After the
9 inspection, I proceeded to the courthouse and researched
10 the deed. The deed is actually in a trust, but the tax
11 record and other information are mailed to Mr. Krstic.

12 HEARING OFFICER: Thank you.

13 MS. RYAN: That's the board's copy. That's
14 yours.

15 BY MS. RYAN:

16 Q. I have -- I'm going to show you what I've
17 marked for identification as Exhibit 1. Can you look at
18 that document, please, and tell me if you recognize it?

19 A. Yes, I do.

20 Q. And what is it?

21 A. It is my inspection report on the

22 August 23rd, 2001, inspection.

23 Q. Can you page through that for me? Is that a
24 fair, accurate and complete copy of your report?

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1 A. Yes, it is.

2 Q. Can you describe this property, generally
3 speaking?

4 A. The property was the location of an old sale
5 barn. I'm not sure of the exact volume of ground there.
6 There's several buildings on the site as well as some
7 open area around them. The date of the inspection, the
8 buildings were in the process of being renovated.

9 Q. Can you describe what a sale barn is?

10 A. In this case, it was a barn where various
11 types of livestock are sold at auction -- in this case,
12 in the past.

13 Q. And you inspected the property on
14 August 23rd, 2001; is that correct?

15 A. That's correct.

16 Q. Who was operating the property that day?

17 A. On that day, I spoke with Brad Krstic and
18 Rick McMeekan. Mr. McMeekan was operating a piece of
19 equipment on the property. And after I talked to him
20 awhile, Mr. Krstic came over.

21 Q. And I believe there are photos attached to
22 your report there. Can you tell me who took those
23 photos?

24 A. I did.

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1 Q. Can you describe what they show?

2 A. The photos -- there's five of them -- show
3 the two separate piles of burnt materials that were
4 located on the property. Photos one through four show
5 the easternmost pile of material that was on the
6 property. Photo number one shows, if you look right in
7 the center of it, you can see -- see circular wire rings.
8 Those are bead rings which are located in the edges of
9 tires; that's along where they seal against the rim.
10 Those are usually left over when a tire has been burnt.
11 You can also see a Bud Light box, an empty cigarette
12 pack, and some pink building type insulation, various
13 vegetative matter, some processed lumber and ashes.

14 Photo two is a more close-up view of the same
15 area. If you look directly in the center of the photo,
16 you can see more of the tire bead rings which appear to
17 be charred and located in the ashes, and the same other
18 types of material -- the processed lumber, the cigarette
19 pack, and the insulation.

20 Photo three is another angle. You can see

21 bead rings in the bottom right that were not visible in
22 previous photos. And if you look in the center, it's a
23 clearer picture of what appears to also be the remnants
24 of a tire rim. There is, once again, the cigarette pack,

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1 insulation, and vegetative matter. And in the upper
2 right, there's some other material that looks to be scrap
3 metal that may or may not have been left over from when
4 other material was burnt off it.

5 Photo four is yet another close-up picture of
6 the same pile showing the processed lumber, vegetative
7 matter, cigarette pack, and insulation. If you look at
8 the bottom left, you can see the -- more wire bead rings
9 and then, once again, the rings in the center. And there
10 are more rings off to the right of the one in the center;
11 however, because of the shadow of the other material, it
12 doesn't show up quite as well.

13 Photo number five, it was taken of the other
14 burn pile on the property that was located more to the
15 east. In the very center of the photo, you see a charred
16 tire rim which has wire bead rings wrapped around it,
17 ashes, and the remnants of processed lumber.

18 Q. Thank you. Mr. Figge, if you look back at
19 photograph number four, underneath that cigarette

20 package, can you tell what that brown material is there?

21 A. That appears to be a grocery bag or something
22 of that nature.

23 Q. In your experience as an environmental
24 protection specialist and field inspector for the

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1 Illinois EPA, what do those photos tell you about what's
2 happened on this property?

3 A. It appears that tires and other waste have
4 been burned in that location.

5 MR. APPLETON: Your Honor, I'm going to object
6 at this time. I think he can give testimony as to what
7 the ash and clearly the burnt material is, but these
8 photographs show things which have not been consumed by
9 fire at all. And for him to postulate that they were
10 burned is clearly incorrect. I don't think he has any
11 expertise to make that finding based upon the cigarette
12 pack that's not touched by fire or the beer container that
13 appears ripped but uncharred, the insulation that is
14 unmarked by any effort to consume by fire.

15 There are a number of things here that are
16 shown in these photographs that are not -- clearly not
17 consumed by fire.

18 HEARING OFFICER: Okay. Miss Ryan?

19 MS. RYAN: I can clarify the question if that

20 would help.

21 HEARING OFFICER: Please.

22 BY MS. RYAN:

23 Q. Based on your experience as a tire inspector,
24 can you describe for me what these photos show happened

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1 to the tires, how these bead rings came to be in this
2 pile basically?

3 A. The wire bead rings that remain, as I said
4 earlier, they seal around the edge of the rim when a tire
5 is sealed -- seats on it, are the -- what is classically
6 left over when a tire is burned. There's -- with the
7 exception of if you have many millions of dollars worth
8 of equipment on-site, the only way you will have a bead
9 ring of wire of that type left over is by combustion of
10 the tire. If the tire was just shredded or cut up, there
11 would still be rubber stuck to it. In these bead rings,
12 there's no rubber left stuck to them, and they're
13 blackened as if by fire. It's very indicative of tire
14 burning.

15 Q. Mr. Figge, was there any burning occurring on
16 the property when you visited on August 23rd?

17 A. The pile to the west, the one shown in
18 photograph number five, was still smoldering. It doesn't

19 show in the photo, though. There wasn't any visible
20 flames, but there still was a little smoke coming up from
21 it.

22 Q. You have described these two areas on the
23 east and the west as burn piles. Can you explain to me
24 why, why you use that terminology?

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1 A. Because, as I said earlier, Mr. McMeekan was
2 operating a piece of equipment on the property at the
3 time. The ground had essentially been cleared where he
4 was operating the piece of equipment, and these two
5 accumulations, it appeared, material had been pushed into
6 a pile where it was combusted.

7 Q. And as I believe Mr. Appleton indicated,
8 there is material at least in the first four pictures
9 that do not appear to be touched by the fire. Is that
10 consistent with your observation on the site?

11 A. That is correct.

12 Q. And so I think perhaps it's safe to assume
13 that this material was placed there after the fire had
14 been extinguished or had extinguished itself?

15 A. That would be correct.

16 Q. You mentioned that you spoke to some people
17 at the site. Can you explain who those people were
18 again?

19 A. I spoke to Mr. McMeekan initially, asking
20 who, who was the owner of the property and his name and
21 what was happening. He indicated Mr. Krstic was the
22 owner of the property. And at that point, Mr. Krstic
23 walked over and joined us.

24 Q. Did you have any further conversation with

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1 Mr. McMeekan or Mr. Krstic at that point?

2 A. Then Mr. McMeekan went back to operating his
3 piece of equipment. Mr. Krstic and I walked around the
4 site, and we discussed the situation.

5 Q. Can you describe that discussion for me?

6 A. I told Mr. Krstic I had received a complaint
7 and that I was investigating it. He explained he had
8 recently purchased the property and that he was in the
9 process of cleaning up -- cleaning it up. He pointed out
10 an area where tires had been segregated off to the side,
11 and he said those were going to be brought to Aledo to be
12 disposed of with the regular tire pick-up at his other
13 facility.

14 He also pointed out that he had a local waste
15 hauler who was going to haul off some of the waste
16 material from the property and showed me where reusable
17 lumber had been segregated. He then indicated that the

18 two areas where burning was occurring was where
19 vegetative waste and some of the lumber that was not
20 reusable had been accumulated and burnt.

21 Q. Did you discuss your discovery of the tire
22 bead rings with Mr. Krstic?

23 A. Initially, I asked him if any tires had been
24 burnt, and he said no, at which time we went to the tire

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1 pile which was located on -- more to the west -- that
2 would be the one shown in photograph number five -- and
3 the rim and bead rings were right in the center of the
4 pile.

5 I asked Mr. Krstic about that, and he said
6 that he thought it must have just got mixed in with them
7 without anyone's knowledge. I acknowledged his
8 statement, and we went over to the second pile, at which
9 time I found a number of tire bead rings in that pile,
10 approximately seven. I asked him about that; and once
11 again, it was that he thought they must have got mixed in
12 with the other materials.

13 My response was that he would -- I would be
14 citing him for tire burning. The volume of tires in the
15 second burn pile made it unlikely in my opinion that it
16 was just mixed in.

17 Q. Mr. Figge, in your -- 12 years, did you say?

18 A. Yes.

19 Q. -- at Illinois EPA, how many inspections do
20 you think you've conducted?

21 A. I'd estimate at least 1500.

22 Q. During those 1500 inspections, have you
23 ever -- I assume you've come across incidents of tire
24 burning in the past?

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1 A. Yes. Numerous times.

2 Q. You said that you didn't believe Mr. Krstic
3 when he said these seven tires -- seven or so tires got
4 mixed into this pile on the eastern side of the property.
5 What did you -- what did you believe was the more
6 plausible explanation?

7 A. They were probably used to start the fire.

8 Q. And why would someone do that?

9 A. That's a fairly common practice when you're
10 trying to get a pile of materials burning. Tires, being
11 made from petroleum products, burn very well, so many
12 people in more rural areas will use a couple tires to get
13 the fire going good.

14 Q. You described that you told Mr. Krstic you
15 were going to be citing violations in your report. Did
16 you explain anything further to him about what might

17 happen following your inspection?

18 A. Yes, I did. Pretty much following every
19 inspection, I tell the respondent that they will receive
20 a letter from the Agency, and that they need to respond
21 to it. In Mr. Krstic's case, since I have inspected his
22 other facility, I told him he's been through the process
23 before, so he knows how it works.

24 Q. At the time you were describing what might

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1 happen after the inspection, at any time did you tell
2 Mr. Krstic that he was not going to be -- sorry -- that
3 these violations would not be pursued by the Agency?

4 A. No, I did not.

5 Q. Did you, at the time of the inspection when
6 you were having the conversation with Mr. Krstic, did you
7 know what action the Agency intended to take in response
8 to this inspection?

9 A. No, I did not.

10 Q. Do you make the decision as to what form of
11 enforcement, if any, is taken after finding violations at
12 a site?

13 A. No, I do not.

14 Q. When was your report generated, if you
15 recall?

16 A. Probably that afternoon and the next day.

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

19 A. Yes, we do.

20 MS. RYAN: At this time, I'd like to move
21 Exhibit 1 into evidence.

22 MR. APPLETON: No objections.

23 HEARING OFFICER: I'll admit Exhibit
24 Number 1.

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1 MS. RYAN: And I have nothing further for
2 Mr. Figge.

3 HEARING OFFICER: Thank you, Ms. Ryan.

4 CROSS-EXAMINATION

5 BY MR. APPLETON:

6 Q. Mr. Figge, is it?

7 A. Yes.

8 Q. You indicated that you had discussed the
9 situation with Mr. Krstic and told him what the usual
10 drill was as far as a letter going out, and he needs to
11 respond to that letter?

12 A. Yes.

13 Q. Is that correct?

14 A. Yes.

15 Q. And did you express any opinion as to what

16 the normal and usual penalty that the EPA would try to
17 extract for -- as a result of these incidents?

18 A. I don't quite understand.

19 Q. Is there a normal thing that happens the
20 first time you find a violation on a property?

21 A. Yes.

22 Q. What is the normal thing?

23 A. Receive a warning letter.

24 Q. And is that usually associated with a fine

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1 or --

2 A. The first time?

3 Q. Yes.

4 A. No, it is not.

5 Q. Okay. Did you make that expression to
6 Mr. Krstic at the time of your inspection?

7 A. I do not recall making that expression.

8 Q. If I were to tell you that both Mr. Krstic
9 and Mr. McMeekan will take the stand and testify that you
10 made that sort of assertion, would that change your
11 recollection in any way?

12 A. Not in the least bit.

13 Q. Okay. How many tires did you say were burnt?

14 A. In which accumulation?

15 Q. In -- well, let's start with picture number

16 five.

17 A. In picture number five, I'd say one.

18 Q. And in pictures one through four, how many
19 tires?

20 A. I would say about seven.

21 Q. And how do you come to that conclusion?

22 A. It doesn't show up in photographs very well,
23 but essentially count the bead rings and divide by two.
24 There's two on each tire.

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1 Q. Okay. And did you, in fact, count the bead
2 rings?

3 A. The visible ones, yes. I didn't get in the
4 pile and tear it apart, though.

5 Q. So, your testimony would be that there were
6 14 visible bead rings?

7 A. Yes.

8 Q. And with regard to the other material that's
9 shown in these photographs that don't appear to be
10 touched by fire, would you conclude that that -- those
11 were additions after any combustion had taken place?

12 A. Yes, that would be my conclusion.

13 Q. Your citation alleged -- or the citation that
14 was issued alleged open dumping. What, from your

15 inspection, would you conclude demonstrates open dumping?

16 A. The remains of the tires; obviously, that is
17 material that's there even after combustion. The pink
18 insulation material, the paper sack, the cigarette pack,
19 the Bud Light box, the processed wood, and I believe I
20 also said there's some metal waste in there, too, that
21 shows, for example, in the upper right-hand corner of
22 photograph number one.

23 Q. Did you have any discussions with Mr. Krstic
24 that day as to the presence or absence of a waste

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1 container?

2 A. Yes, I did.

3 Q. What was the nature of that discussion?

4 A. Generally, Mr. Krstic said he had -- I
5 believe it was County Waste who was hauling off the
6 material as they were refurbishing the building.

7 Q. Okay. Well, was there a County Waste
8 receptacle there?

9 A. Yes, there was.

10 Q. And was there any indication that Mr. Krstic
11 was not going to be depositing these items that were
12 metal, not consumed by fire and unburnt, was there any
13 indication that he was not going to deposit those
14 eventually in the waste container?

15 A. No, there was not.

16 Q. So, it was completely likely that
17 Mr. Krstic -- you caught Mr. Krstic in the process of
18 gathering together materials for deposit in that waste
19 container; is that correct?

20 A. That is correct.

21 Q. You also make allegations of litter upon the
22 property. What would you -- what in your inspection
23 would cause you to believe that Mr. Krstic permitted
24 litter upon his property?

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1 A. The materials named before -- the remains of
2 the tires, the processed wood, the cigarette pack, the
3 Bud Light, the insulation.

4 Q. Did Mr. Krstic discuss with you that he had a
5 history of several containers full of material having
6 been hauled off by County Waste?

7 A. I do not recall that.

8 Q. Did you have a discussion with Mr. Krstic as
9 to how he regularly disposed of tires?

10 A. Yes, I did.

11 Q. What was the nature of that conversation?

12 A. I do not recall who was picking up his tires
13 for him, but he does have a body shop in town which has

14 regular waste tire pick-up.

15 Q. Okay. So, to your knowledge, you were -- you
16 were aware that Mr. Krstic had made a past practice of
17 properly disposing of tires; is that correct?

18 A. From which facility?

19 Q. Well, from any facility.

20 A. From this one in Aledo, yes.

21 Q. He knew how to do it?

22 A. Yes.

23 Q. And there was a pile of tires there on the
24 property when you inspected?

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1 A. Yes, there was.

2 Q. Did he indicate to you how he was planning to
3 dispose of those tires?

4 A. Said he was going to take them to his place
5 in Aledo to go with his regular pick-up.

6 Q. Do you have any reason to doubt that
7 Mr. Krstic was sincere in that?

8 A. No, I do not.

9 Q. You concluded that it was not inadvertent
10 based upon the number of tires. Did you see the tangle
11 of vegetation that was bulldozed into a pile before it
12 was bulldozed and burnt?

13 A. No, I did not.

14 Q. Do you have any way of speculating on whether
15 there -- in that tangle of vegetation there were tires
16 that were buried and not readily noticeable to someone
17 cleaning up the area?

18 A. No, I do not.

19 MR. APPLETON: Nothing further.

20 HEARING OFFICER: Thank you, Mr. Appleton.

21 Ms. Ryan?

22 REDIRECT EXAMINATION

23 BY MS. RYAN:

24 Q. Mr. Figge, when you testified that it was

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1 normal to receive -- for the Agency to send a warning
2 letter the first time a property is cited for violations,
3 and you also testified earlier that you stated to
4 Mr. Krstic during the inspection that -- I believe the
5 statement was, "You know the drill," can you explain what
6 that -- what you meant by that phrase?

7 A. Myself and other Agency representatives have
8 inspected Mr. Krstic's facility in Aledo. While I cannot
9 testify to other agents -- what other Agency
10 representatives have done concerning Mr. Krstic,
11 concerning tires, I have sent him warning notices in the
12 past which have been responded to and dealt with during

13 the normal course of business.

14 Q. And when you say "in the past," do you mean
15 prior to August 23rd, 2001?

16 A. Yes, I do.

17 Q. Did you observe any other piles on the
18 property besides the two that are described in your
19 report?

20 A. He had segregated some reusable lumber into
21 various accumulations.

22 Q. You did mention that. I'm sorry. Let me be
23 more specific. Did you notice any other piles of
24 materials like those in the two burn piles that are shown

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1 in these photographs -- insulation, paper materials,
2 metal, whatever this blue thing in the corner is?

3 A. I didn't notice any other accumulations of
4 material like that, but there was an accumulation of used
5 tires that were on a flatbed trailer.

6 Q. Okay. Thank you. So, it appeared to you
7 then from your inspection of the property that all of the
8 accumulations of materials such as paper, insulation,
9 metal bead rings -- and again, we're still not sure what
10 that is in the corner -- were on top of these two burn
11 piles; is that correct?

12 A. That is correct.

13 MS. RYAN: Thank you. That's all I have.
14 HEARING OFFICER: Okay.
15 MR. APPLETON: Nothing further.
16 HEARING OFFICER: Okay. Thank you, Mr. Figge.
17 THE WITNESS: Who gets this?
18 MS. RYAN: That's yours. You don't need it.
19 I mean, you can have it.
20 HEARING OFFICER: Ms. Ryan, anything further?
21 MS. RYAN: No. The Agency rests.
22 HEARING OFFICER: Okay. Thank you.
23 Mr. Appleton, call your first witness, please.
24 MR. APPLETON: We'd ask Mr. Krstic to take the

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1 stand.
2 (Witness sworn.)
3 BRAD K. KRSTIC,
4 called as a witness, after being first duly sworn, was
5 examined and testified upon his oath as follows:
6 DIRECT EXAMINATION
7 BY MR. APPLETON:
8 Q. Would you give your full name, please, and
9 spell it?
10 A. My name is Brad, middle initial K., Krstic.
11 B-r-a-d, last name K-r-s-t-i-c.

12 Q. And you own the property located on
13 Route 17 in Green Township which is the subject matter of
14 this proceeding?

15 A. Yes, I do.

16 Q. Can you describe how you came to acquire that
17 property?

18 A. In an attempt to expand a business that's
19 located in Aledo proper, I discovered this property was
20 available -- was soon to be made available as a result of
21 a lawsuit that the county had filed against its former
22 owners. To avert condemnation hearings against the
23 former owners, the seller, the current owner, decided
24 that it would be in his best interests to find a buyer

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1 who would comply with the local state's attorney's and
2 county board's request to clean it up by selling it
3 rather than to do it himself.

4 So, he approached me and offered to
5 purchase -- offered the sale of the property. And a deal
6 was made, and we agreed on a price; and I, of course,
7 through legal -- through attorneys and all and the
8 finance arrangements, purchased the property. And at
9 that time, I also inherited the lawsuit that went with
10 the property.

11 The local state's attorney decided that the

12 fact that it changed hands was not reason enough to, to
13 forego the lawsuit. It still had to be cleaned up. And
14 I bought it full well -- and with full knowledge that
15 that's what had to be done.

16 Q. All right. I'm going to hand you what I've
17 marked as Exhibit C and which purports to be a newspaper
18 published here locally. Has a picture of -- on it. Can
19 you identify what that picture is of?

20 A. That's the eastern one fourth of the
21 property, one of the ramshackle, tornado-damaged
22 facilities in 1998. That site had been struck twice
23 within two weeks by tornados that had blown through, and
24 the only structures that was actually solid standing was

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1 the -- later I'll explain -- is the building we saved.

2 So, yes, this is one fourth of the structures
3 that had to be demolished per court order.

4 Q. And there's an accompanying news article that
5 describes the situation with the county board that I
6 think you indicated earlier; is that correct?

7 A. Well, it explains more detail. That the
8 county board chairman, along with the local state's
9 attorney, had finally found a way to, to get some closure
10 on this problem that had been going on since the, the

11 damage occurred in, in 1998. Yes.

12 MS. RYAN: That's fine. Proceed. Thanks.

13 BY MR. APPLETON:

14 Q. Let me hand you what I've marked as Group
15 Exhibit B and ask if you can identify that?

16 A. This would be the -- what's left of the south
17 elevation. The roofs are all gone. The tornados have
18 blown the sheet steel off and around the neighborhood.
19 Basically, the former owner turned his back on this
20 property and walked away. There was -- at that time,
21 when these roofs blew off, the neighbors' homes and all
22 the properties on the perimeter of this little community
23 had litter and debris and garbage and lumber and sheet
24 steel and tin and metal.

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1 And here's more pictures of the devastation
2 of the storms. And gates were blown off. And this
3 picture is one of the original steel, most recent
4 constructed building that seemed to endure the, the
5 storms. This is another south photo. This is another
6 photo showing how the roof's been removed. Of course,
7 these pictures appear to have been taken in the winter
8 when there's snow on the ground; does not show all the
9 brush and the weeds and the, the growth that was all
10 around the perimeter, completely around this 13-acre

11 site.

12 Q. Let me stop you there. How -- when did you
13 actually buy the property?

14 A. June 17th, 2001.

15 Q. All right. And these pictures would have
16 predated that purchase; is that correct?

17 A. Right.

18 Q. You didn't take these photographs, though?

19 A. I did not take these photographs.

20 Q. But do they -- other than the lack of showing
21 the vegetation, do they fairly and accurately describe
22 the condition of the property as it was?

23 A. With the exception of the weakness of some of
24 these structures, they had completely fallen in

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1 between -- I see a date of January 11th here. And by
2 June, the weight of the snow and the last winter's --
3 there's some snow right there. Those roofs were
4 collapsed, and they were in a heap.

5 Q. All right. And let me show you what I'm
6 going to mark as Group Exhibit E --

7 (A discussion was held off the record.)

8 BY MR. APPLETON:

9 Q. -- and ask you to identify those?

10 MS. RYAN: I'm sorry. What did you say that
11 was marked as?

12 MR. APPLETON: E.

13 MS. RYAN: E. I thought you said B again.
14 I'm confused.

15 A. This -- you may find that the date is not
16 correct on these pictures, as this was taken with my
17 wife's camera, but this is a pretty much accurate
18 portrayal of the state and the condition of the property
19 when, when we closed on the purchase.

20 Q. Did you take these photographs?

21 A. Yes, I did.

22 Q. All right.

23 A. It's just -- there's a photo of an
24 individual. I hired some young high school boys to come

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1 in and help start culling out tires, culling out debris,
2 culling out any-- anything that we could actually carry
3 out from the property and stack and dispose of. They
4 would put the metal scrap in the metal tub. We put the
5 refuse in the Watts containers.

6 I had a gentleman come in -- where there was
7 enough to mow down, I had a farmer come and mow the hay
8 down, but he didn't dare go close to the buildings or
9 around the north side where this burn pile of issue was,

10 was situated for, for fear of what might have been laying
11 in there or buried.

12 Q. Well, let me ask you this: In the process of
13 getting ready to clear the field, did you have workers in
14 there pulling out items that weren't part of the natural
15 vegetation?

16 A. Absolutely. Every day.

17 Q. Every day from when to when?

18 A. From the day we closed. We started the very
19 next morning, June 18th -- I believe it was June 18th,
20 until basically school started for some of those young
21 men. And then I still have them. They're still working
22 on it now, to this day. They're there now, today.

23 Q. Well, let me ask you this: There was
24 testimony that there was a trailer with a bunch of tires

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1 piled on it. Where did those tires come from?

2 A. That was -- that was a segregated pile that
3 we were able to walk the field and find -- actually pick
4 up and move through the perimeter, put on a hay rack and
5 drag to a segregated area where we were basically --
6 we're recyclers. We saved every board we could save; we
7 saved every gate, metal gate we could save; we saved all
8 the timber that was dimensional -- dimensionally sound so

9 we could use it again somewhere.

10 And the tires ended up on a flatbed trailer
11 segregated from the fires, to the best of -- obviously,
12 we didn't get them all. But they went to Aledo, and they
13 ended up, and you have a manifest from --

14 Q. Well, let me --

15 A. -- disposal.

16 Q. Let me get back to the pictures you have in
17 your hand. Is there one picture in particular that would
18 best demonstrate the density of vegetation that was on
19 the property that day?

20 A. I think so. There's -- yes. There's three.

21 Q. The three top -- I'll take the three top
22 ones.

23 HEARING OFFICER: Mr. Appleton, would you
24 write on the back photos one, two, three for the top

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1 three? Just the three that you're specifically discussing
2 now, please.

3 BY MR. APPLETON:

4 Q. Now, in your effort to clean up the site, did
5 you cause the weeds and debris on the north side of the
6 building to be bulldozed?

7 A. That was the final act.

8 Q. Okay.

9 A. After we had walked it and culled out what we
10 could, there was standing water that had been a public
11 dump. There hadn't been any fencing or perimeter
12 protection there for two or three years, and the public
13 knew it, and there was -- there was stuff there that had
14 nothing to do with the prior use of the property. There
15 was just container loads of stuff, bicycles and
16 refrigerators and dishwashers and stuff that was stacked
17 up front and paid to have hauled away. But yes, the
18 weeds were over head high when we finally got done,
19 started to bulldoze.

20 Q. And what -- do you remember the date that
21 that occurred?

22 A. It was probably a week to ten days before.
23 We were bulldozing the final -- trying to grade it the
24 day that the inspector showed up, frankly. We had

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1 burned -- we had stacked up two or three big piles of
2 brush and burned them and finally concentrated -- got it
3 down to one pile. And that's the pile that he has a
4 photo of with the rim and tire in it.

5 Q. In starting the fires after the bulldozing,
6 did you purposely include tires to start those fires?

7 A. Those, those weeds were bone dry, and the

8 boards that were in there were hundred-year-old boards.
9 All it needed was a match. We did it -- we just pulled
10 it all in a pile and started the fire.

11 Q. At the time of the inspection, did you
12 explain that situation to the inspector?

13 A. Yeah. He was good with it.

14 Q. What do you mean by that?

15 A. I think he understood that it was an honest
16 mistake on our part. We agreed at that time that --
17 well, he never said it in so many words, but it was my
18 impression that, "These things can happen, and I'll put
19 it in my report."

20 Q. Well, let me hand you a copy of his report
21 which has been previously introduced as Exhibit 1. And
22 directing you to the back pages of that report, there are
23 some photographs that appear there. Some of it appear to
24 be -- you don't dispute the fact that there's evidence

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1 there that there were tires that were burnt in the burn
2 pile?

3 A. No, I do not. I don't deny that.

4 Q. But were these burnt with your knowledge?

5 A. No, nor under my direction.

6 Q. There appear to be other items of litter
7 there -- torn beer box, empty cigarette package, some

8 insulation. Why were those there?

9 A. The curbs and the road sides and all the
10 perimeter of the property, like I say, had been a
11 free-for-all, a place for people to dump trash. These
12 young men I had working for me, they were told to
13 accumulate it in a pile. I had the poor misfortune on
14 the day of the inspection to be caught -- actually, not
15 to contradict Mr. Figge, there was a metal container
16 there, but there also was a refuse container that had
17 been picked up the day before, but another one not
18 dropped off. And those materials were -- that was what
19 we called the east pile. We just -- those kids were told
20 to wheelbarrow that stuff into a pile, and they would get
21 put into the containers.

22 Q. Let me show you what I've marked as Group
23 Exhibit A. Can you identify what those documents are?

24 A. They're bills of lading from Watts Landfill

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1 for the approved -- the EPA waste-hauling containers that
2 we maintained on the premises and still do today. These
3 invoices go back from July to December -- even as late as
4 December. As I say, this property has been --

5 Q. July of 2001 to December of 2001?

6 A. Yep. There's probably one in here -- here's

7 one for September. In addition to the Watts bills which
8 were refuse, there was also metal scrap, three semi loads
9 of metal scrap culled out of the interior of the property
10 as well as the premises.

11 And that's where we dumped the refrigerators
12 and took the washers and dryers and, and any metal -- as
13 a matter of fact, we received just a bill of lading with
14 no money because the load actually had no value. It
15 was -- it was liability. However, we filled it up and
16 paid the trucking, and we got a bill for the trucking.

17 Q. All right. Well, I think I had stopped you
18 in the middle of your thought. Was it -- the day of the
19 inspection, are those items as present and shown in the
20 photographs, was it your intention to leave those items
21 where they were, remain?

22 A. Absolutely not. I would say that the beer
23 cartons and the cigarette packs and the -- boy, you could
24 leave town here and not get a mile out of town and find

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1 that kind of stuff on either side of the ditch. My boys
2 were told to pick it up, gather it into a pile, and we
3 would take care of it when the container arrived back on
4 the property.

5 Q. And that's, in fact, what happened to that?

6 A. Yep. It and four or five other container

7 loads.

8 MS. RYAN: That's fine.

9 MR. APPLETON: I would move to admit Group A,
10 Group B, Group E and Exhibit C.

11 MS. RYAN: I'd like to have a look at Group E.
12 I didn't get to see the whole thing.

13 MR. APPLETON: I'm sorry.

14 HEARING OFFICER: Just a minute, please.

15 Miss Ryan, any objection?

16 MS. RYAN: No objection.

17 HEARING OFFICER: Okay. Exhibit C and Group
18 Exhibit A, B and E will be admitted.

19 BY MR. APPLETON:

20 Q. Let me also hand you what I've marked as Group
21 D and ask if you can identify that?

22 A. These are my receipts for disposal of tires
23 for the past 15 months, January of '02 (sic) until today.
24 January 14th. January of '01 to January of '02, 12

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1 months.

2 Q. There's been testimony that you also operate
3 another business besides the facility located on Route 17
4 in Green Township; is that correct?

5 A. That's correct.

6 Q. And in the course of operating that business,
7 you also dispose of tires on a regular basis?

8 A. We do.

9 Q. Is that right? You're aware of the
10 requirements that disposal of tires take special
11 handling?

12 A. Yes, I do. Yes, I am.

13 Q. And as a matter of fact, there's usually a
14 fee associated with disposal of those tires; is that
15 correct?

16 A. Yes, there is.

17 Q. And do these billings shown in Group Exhibit
18 D indicate that you normally and regularly pay that
19 handling fee?

20 A. Absolutely.

21 Q. There was testimony that on the property in
22 the Viola sale barn on Route 17 in Green Township that
23 there was a stack of tires that had been stacked up or
24 segregated; is that correct?

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1 A. That's correct.

2 Q. And what happened to that stack of tires?

3 A. They were loaded onto a flatbed trailer and
4 brought to Aledo, the rims were dismounted, and they were
5 counted and sorted and put in with the trailer load

6 probably dated -- some were dated -- this is -- some of
7 them left on August 8th. Some didn't leave until -- just
8 a few days ago, got rid of 520. On August 8th, we got
9 rid of 400. And it looks like there's a bill here for
10 800 tires, so yes, we -- we co-op with the local FS Tire,
11 the biggest tire dealer in the county. They bring us the
12 semi empty. We pay whatever portion of the trailer we
13 fill. If we don't fill it all the way, they take it back
14 to their plant, top it off, and then they have it hauled
15 away, and they send me a bill.

16 Q. In cleaning up this property, what were your
17 instructions to your workers? What were they to do with
18 tires that they found out in the fields?

19 A. Stack them on the semi.

20 Q. And that's where this stack that was located
21 there came from, out in the field?

22 A. (Witness nods head.)

23 HEARING OFFICER: I'm sorry. Will you answer
24 out loud?

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1 A. Yes.

2 HEARING OFFICER: Thank you.

3 MR. APPLETON: Move for the admission of Group
4 Exhibit D.

5 MS. RYAN: No objection.

6 HEARING OFFICER: It's admitted.

7 BY MR. APPLETON:

8 Q. Mr. Krstic, you had mentioned earlier in your
9 testimony that when you bought this property, you bought
10 it subject to a pending lawsuit; is that correct?

11 A. That's correct.

12 Q. And what was the nature of that lawsuit?

13 A. I believe the state's attorney was trying to
14 compel the prior owners to clean up -- actually demolish
15 the buildings and clean up the site, to remove it from a
16 list of properties in the county that were a hazard to
17 the general public and detrimental to the -- I guess you
18 would call it the tax rolls of the county. And his
19 failure to comply with the request on numerous occasions
20 resulted in a suit finally being brought against him. He
21 decided that it was in his best interest to finally sell.

22 Q. All right. But in your purchase -- what
23 happened to the lawsuit at the time of your purchase?

24 A. Transferred with the deed, to me.

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1 Q. You were under an obligation?

2 A. I was given 30 days by the local state's
3 attorney's office -- I was served papers, actually. I
4 was served papers with 30-day notice to completely clean

5 up and comply with the same request that they made of the
6 prior owner.

7 Q. And have you complied with those requests?

8 A. I have. I have indeed, but I needed to come
9 back to the county, and I asked them to give me an
10 additional time frame as there was just too much to be
11 done in so short a time. We could not accomplish what
12 the county board wanted. I mean, they made it clear what
13 had to be done. We couldn't do it. So, we appealed to
14 them for another 30 days, and they granted that.

15 Q. All right. And ultimately, what happened
16 with the lawsuit? Was it --

17 A. It was dismissed without hearing.

18 Q. And have you received any correspondence from
19 the county board concerning that lawsuit?

20 A. Yeah, I have -- I received a letter from the
21 county board chairman.

22 Q. Let me show you what I've marked as Exhibit F
23 and ask you to identify that.

24 A. This is a letter dated February 7th from the

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1 Mercer County Board, the same group that brought the
2 charges against the former owner. And in it, it states
3 so much, that there was discussion regarding the property

4 of the, quote, old Viola sale barn and how much the
5 property has been improved.

6 "We, the members of the board, have received
7 eight complaints of what an eyesore the property was.
8 The opposite is now true. We get many compliments on how
9 well it has been cleaned up. Everyone on the board
10 wanted to let you know how much we appreciate your
11 efforts." Signed, Wallace Green.

12 Q. Do you think that the condition of that
13 property is now dramatically improved over what the
14 condition was when you purchased it?

15 A. Yes, it is.

16 MR. APPLETON: And move for the admission of
17 Exhibit F.

18 MS. RYAN: We object on the basis it's not
19 relevant.

20 HEARING OFFICER: I'm going to overrule your
21 objection and admit it, admit Exhibit F into the record.

22 MR. APPLETON: No further questions.

23 MS. RYAN: Can we take five minutes?

24 HEARING OFFICER: Sure. Let's take five

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1 minutes, and be back at five minutes after 11, please.

2 (Whereupon, a recess was taken.)

3 HEARING OFFICER: Okay. We're back on the

4 record. It's 11:05. Miss Ryan, cross?

5 MS. RYAN: May I borrow Group Exhibit -- well,
6 the pictures. I think it's E. Thank you.

7 CROSS-EXAMINATION

8 BY MS. RYAN:

9 Q. Mr. Krstic, I think you testified that you
10 took these pictures at about the time of the closing on
11 this property; is that right?

12 A. Yes, it is.

13 Q. I can't tell from the pictures. How many
14 buildings were there on the property on that day? It
15 looks like some of them may be connected.

16 A. They're all connected.

17 Q. It's all one big building?

18 A. It's one big building that's been -- it's a
19 building scabbed onto another building scabbed onto
20 another building. It's the evolution of a
21 hundred-year-old property.

22 Q. Okay. And there is a building still on the
23 property; is that right?

24 A. No.

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1 Q. There's no building?

2 A. All brand new buildings.

3 Q. I see. So, you tore down all the buildings
4 that are in these pictures?

5 A. All the wood structures.

6 Q. Okay. Thank you. Well now, some of these
7 buildings look like they have metal siding and stuff.
8 You tore that down as well?

9 A. They all had metal siding, but they were wood
10 structures. There was one structure that was red iron.
11 The tallest building is red iron, and it remained. It
12 was the only undamaged building on the property.

13 Q. Is that this green one?

14 A. Yes, it is.

15 Q. Okay.

16 A. It did need a roof.

17 Q. Okay. So, besides the green building that's
18 visible in several of these pictures, you tore down the
19 remaining buildings on the property?

20 A. (Witness nods head.) Yes, I did.

21 Q. Okay. You testified, I believe, that you
22 burned the lumber from those buildings?

23 A. Yes, we did.

24 Q. Thank you. Now, I believe you also testified

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1 that the weeds that you burned were bone dry?

2 A. Primarily.

3 Q. Okay. Sorry about this; I'm trying to get to
4 where I'm going here. Did you burn the weeds immediately
5 after you cut them or --

6 A. No.

7 Q. -- bulldozed them? Do you know how long they
8 sat there?

9 A. Just a day or two.

10 Q. A day or two. That was enough to dry them
11 out?

12 A. I think so.

13 Q. Okay. Do you know how long -- what period of
14 time you were burning for? You mentioned that you had
15 burned other piles besides the one that Gene saw. I was
16 just curious as to how long the burning went on.

17 A. We would accumulate a pile, and, and we'd
18 burn it. We would police it up, accumulate another pile
19 and burn it. Probably, probably for two weeks.

20 MS. RYAN: Okay. That's all I have.

21 HEARING OFFICER: Any redirect, Mr. Appleton?

22 MR. APPLETON: Yes. It involves an area I
23 guess that I didn't explore on direct examination and
24 wasn't covered on cross, but maybe I can ask the question,

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1 and it won't draw an objection.

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REDIRECT EXAMINATION

BY MR. APPLETON:

Q. At the time of the inspection, did you have a conversation about what was the usual disposition of the inspector's report?

A. Yes, I did.

MS. RYAN: I would object based on it's beyond the scope of cross.

HEARING OFFICER: Any argument?

MR. APPLETON: No.

HEARING OFFICER: I'm going to sustain the objection. Anything further?

MR. APPLETON: No, I can get into that from another witness.

HEARING OFFICER: Thank you, Mr. Krstic. You may step down.

(Witness sworn.)

RICHARD REGNIER,
called as a witness, after being first duly sworn, was examined and testified upon his oath as follows:

EXAMINATION

BY MR. APPLETON:

Q. Rick, would you give your full name?

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1 A. My name is Richard Regnier.

2 COURT REPORTER: Could you spell your last
3 name?

4 THE WITNESS: R-e-g, as in George, n-i-e-r.

5 MS. RYAN: I'm sorry. Could you read that
6 back for me? You went too fast.

7 THE WITNESS: R-e-g-n-i-e-r.

8 MS. RYAN: R-e-g-n-i-e-r. Okay.

9 BY MR. APPLETON:

10 Q. Are you employed by Mercer County, Illinois?

11 A. Yes, I am.

12 Q. In what capacity?

13 HEARING OFFICER: I'm sorry, Mr. Appleton. I
14 want to get something on the record before I let you go
15 ahead and ask your witness -- and I apologize for jumping
16 in here. I want to make it clear on the record that I'm
17 treating Ms. Ryan's motion that she made preliminary to
18 starting the hearing about the exclusion of witnesses, I'm
19 treating that as a motion in limine. Okay?

20 MS. RYAN: Thank you.

21 HEARING OFFICER: Okay. Thank you. And I
22 apologize again.

23 MR. APPLETON: No problem.

24 BY MR. APPLETON:

1 Q. Are you employed by Mercer County, Illinois?
2 A. Yes, I am.
3 Q. In what capacity?
4 A. I am the supervisor of assessments and zoning
5 officer for the county.
6 Q. All right. In connection with your
7 responsibility as zoning officer, are you familiar with
8 an ordinance violation case that was filed against the
9 Viola sale barn property in Green Township?
10 A. Yes, I am.
11 Q. Did you participate in inspecting that
12 property?
13 A. Yes, I did.
14 Q. And if I were to show you some photographs --
15 let's start with Exhibit C. Does that fairly and
16 accurately portray the property on or about the time the
17 suit was brought?
18 A. Yes.
19 Q. It shows only a portion of the property in
20 question; is that correct?
21 A. Yes.
22 Q. Let me hand you also what's been marked as
23 Group Exhibit B, and I believe that those were
24 photographs taken in January of 2001. But would they

1 fairly and accurately portray the condition of the
2 buildings on the property at or about the time of the
3 suit?

4 A. Actually, they -- these are not bad for what
5 was there. The actual -- the property was actually in
6 worse condition than what these pictures even show
7 because you can't see the inside of the buildings.

8 Q. Okay. Well, I think I can -- I think I can
9 help you out there. Let me hand you what's been marked
10 as Group Exhibit E and ask you, do those photographs
11 fairly and accurately portray the condition of the
12 building at or about the time Mr. Krstic acquired title?

13 A. Yes. Somebody mowed the grass here. But
14 when we started the suit, the grass hadn't been mowed or
15 bales of hay weren't there. But everything else
16 represents pretty much what was already -- what was
17 there.

18 Q. Did you have occasion to walk over the ground
19 north of the building?

20 A. North. Get my directions straight. Part of
21 it, yes.

22 Q. Did you notice that there was a sizable
23 amount of debris in the open fields there?

24 A. Yes.

1 Q. And as part of the lawsuit, were you asking
2 the original owners and, eventually, Mr. Krstic to clean
3 up that debris?

4 A. Uh-huh.

5 Q. And how would you describe the vegetation,
6 let's say height-wise?

7 A. Height-wise?

8 Q. In June and July.

9 A. I would say it was over three foot tall.

10 Q. All right.

11 A. Some spots it was even higher. Parts of it
12 were in the building that you couldn't even see.

13 Q. Would it be fair to say that the vegetation
14 was dense enough to obstruct clear visibility of all the
15 debris that was laying out in the field?

16 A. And the snakes and the rats and other things
17 I almost walked into.

18 Q. All right. Would it be possible in your
19 estimation to walk that field, pulling out debris, and
20 miss some debris?

21 A. Would it be possible to do that?

22 Q. Yes.

23 A. Absolutely.

24 Q. All right. Eventually, Mr. Krstic made the

1 repair -- or demolished the buildings, rebuilt buildings,
2 cleaned up debris to the satisfaction of the county
3 board; would that be a fair statement?

4 A. Yes.

5 Q. And ultimately, the suit was dismissed. Was
6 that on your recommendation?

7 A. Based upon my inspections.

8 Q. Okay. And --

9 MR. APPLETON: Nothing further.

10 HEARING OFFICER: Miss Ryan?

11 MS. RYAN: No, I don't have anything.

12 HEARING OFFICER: Thank you. You may step
13 down. Thank you.

14 THE WITNESS: Thanks.

15 MR. APPLETON: I would call Rick McMeekan to
16 the stand.

17 (Witness sworn.)

18 RICK L. McMEEKAN,

19 called as a witness, after being first duly sworn, was
20 examined and testified upon his oath as follows:

21 DIRECT EXAMINATION

22 BY MR. APPLETON:

23 Q. Could you give your full name and spell your
24 last name?

1 A. Rick L. McMeekan, M-c-M-e-e-k-a-n.

2 Q. Are you employed, Mr. McMeekan?

3 A. Yes.

4 Q. By whom?

5 A. By Brad's Auto and Truck Parts.

6 Q. All right. That would be -- Brad Krstic
7 would be the owner of that?

8 A. Yes.

9 Q. And were you employed in connection with the
10 cleanup of the Viola sale barn property which is located
11 on Route 17 in Green Township, Mercer County?

12 A. Yes.

13 Q. As a matter of fact, you were present the day
14 that the inspector from the EPA came; is that correct?

15 A. Yes, I was.

16 Q. What were you engaged in doing that day?

17 A. Trying to level out the ground north of the
18 building where the fire pile was that he seen.

19 Q. All right. What was -- can you describe the
20 condition of the property north of the building at or
21 about the time that Mr. Krstic purchased it?

22 A. It had high weeds, a pile of -- piles of dirt
23 with various debris in it, things you couldn't even see
24 until you ran into them with the machine; small trees.

1 Q. Were you given any instructions on the
2 cleanup of that property north of the sale barn?

3 A. Yeah. To pick up debris, pile the trash and
4 get rid of it, whatever needed to go into the various
5 places.

6 Q. Were there other people working with you in
7 accomplishing that?

8 A. Yeah, we had some young boys out there. And
9 I actually had one with me. When I would level a pile of
10 debris, he would pick out the metal, the tin, and put it
11 all in its place that it needed to go.

12 Q. All right. When you say leveling, you were
13 operating a piece of equipment of some sort?

14 A. Yeah, bulldozer.

15 Q. Okay. And from that -- from the driver's
16 seat of the bulldozer, were you able to see every piece
17 of debris that was pushed out?

18 A. No, I wasn't.

19 Q. But there was another kid operating -- doing
20 the work in conjunction with you that was responsible for
21 pulling out those items?

22 A. Yes.

23 Q. And his instructions were to segregate --
24 pile the tires over here, pile the metal over here, pile

1 the usable wood over here?

2 A. Yes.

3 Q. And you're the one that pushed together the
4 brush piles and started them; is that correct?

5 A. Yes.

6 Q. Now, did you use any tires to light those
7 brush piles?

8 A. No, I did not.

9 Q. How did you light the brush piles?

10 A. It didn't take much to get it started. The
11 wood was very dry that we burnt. I might have used some
12 newspaper or -- stuff it in there, and it would go.

13 Q. Now, in -- you were present when the EPA
14 inspector testified here today, correct?

15 A. Yes.

16 Q. You were the fellow that actually lit the
17 fires that he inspected the charred remains of; is that
18 correct?

19 A. Uh-huh. Yes.

20 Q. Were you aware prior to lighting those fires
21 that there were tires located in the pushed-together burn
22 pile?

23 A. No, I was not.

24 Q. With regard to the litter and debris that's

1 shown in his photographs, there were cigarette -- empty
2 cigarette containers and, looked like, torn insulation
3 and, and a ripped beer box. How did those get into the
4 pile?

5 A. It could have blew from anywhere. We just
6 picked it up as it -- as we went and put it to the
7 dumpster. We just may not have gotten to that part that
8 day.

9 Q. As a matter of fact, the very time that the
10 inspector was out there, the one dumpster had been hauled
11 away and had not been returned; is that correct?

12 A. Yes.

13 Q. Were you present when the inspector and
14 Mr. Krstic were discussing what usually happens in
15 connection with these sort of reports?

16 A. Yes. On the tires?

17 Q. Yes.

18 A. Yes.

19 Q. Do you recall what the inspector had to say
20 that day?

21 A. He said something about, "You know the
22 routine," and it was going to be a warning letter of some
23 kind, and we had to respond back to it within a certain
24 amount of time. And that's as far as I thought it was

1 going to go.

2 MR. APPLETON: All right. I have nothing
3 further.

4 HEARING OFFICER: Okay. Thank you.

5 Ms. Ryan?

6 CROSS-EXAMINATION

7 BY MS. RYAN:

8 Q. Mr. McMeekan, you said that you were
9 bulldozing material into piles and burning them --

10 A. Uh-huh.

11 Q. -- on the site?

12 The two piles that were described in the
13 report -- I don't know if you've seen the report. Have
14 you?

15 A. I --

16 Q. Let me show it to you then, and then we'll
17 know we're all talking about the same thing. If you
18 could just look at -- there's a site sketch here which
19 I'll direct you to which is about maybe page eight or
20 nine.

21 That's the big building. And here's where
22 the pictures are taken from. Then if you would like to
23 look at that and the pictures, you can kind of
24 familiarize yourself with where we're talking about here.

1 There's one more page of pictures there you didn't look
2 at.

3 Now, I realize you may not recognize those
4 close-up photos because you were thinking of the property
5 as a whole, but looking back at the site sketch and at
6 those photos, the two locations where it shows the photos
7 were taken, were those the only two locations where the
8 burning took place on the property? It's the page before
9 the photos there.

10 A. Yeah, to my recollection it is.

11 Q. Okay. Was anybody else involved in burning
12 on the property besides you?

13 A. No. Sometimes the boys would haul the wood
14 to it, but other than that --

15 Q. Okay. I think we're done with that. Now, I
16 think you testified that you were segregating out the
17 usable wood or the boys that were helping you were
18 segregating out the usable wood?

19 A. Yes.

20 Q. And what were your instructions with respect
21 to the unusable wood?

22 A. To burn it.

23 Q. And -- oh, I'm sorry. Let me hand you
24 Exhibit 1 back again. If you look at those first four

1 pictures, which they're all different views of the same
2 pile there, there's some pink insulation in there that
3 Mr. Appleton was referring to. Do you know where that
4 insulation came from?

5 A. They had it in -- I mean, it was nailed to
6 walls all throughout the building. Some of it was blowed
7 down. But that particular, I don't know where that come
8 from.

9 Q. I guess all I'm trying to find out is, does
10 that look like the type of insulation that you saw in the
11 buildings that were on the property there?

12 A. Yes, there was that in the buildings.

13 MS. RYAN: Okay. That's all I have. Thank
14 you.

15 HEARING OFFICER: Anything further,
16 Mr. Appleton?

17 MR. APPLETON: Yes, if I could.

18 REDIRECT EXAMINATION

19 BY MR. APPLETON:

20 Q. The insulation in question was also found in
21 other places on the property; is that true?

22 A. Yeah. It was -- it had been blown
23 everywhere.

24 Q. And your instructions were to gather it

1 together, correct?

2 A. Right.

3 Q. And what would you do with it once it was
4 gathered together?

5 A. It would go to the dumpster.

6 Q. Okay. And on this particular day, there was
7 no dumpster on the site; is that correct?

8 A. No, there was not.

9 Q. As a matter of fact, you were instructed to
10 clear all the litter that collects alongside the highway
11 and gather that together as well, weren't you?

12 A. Yes, because we was going to burn it.

13 Q. And with regard to the property as it exists
14 today, are you still finding tires buried out in the
15 fields and thereabouts?

16 A. I haven't been out there pushing, but I'll
17 bet if you get out and mess around, there could still be
18 in the ground because we never quite got finished.

19 Q. Okay. And those wouldn't be apparent --
20 readily apparent to the naked eye?

21 A. No.

22 MR. APPLETON: Nothing further.

23 HEARING OFFICER: Thank you.

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REXCROSS-EXAMINATION

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BY MS. RYAN:

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Q. Mr. McMeekan, you said there might still be tires buried out there. By "buried," did you mean in the vegetation or in the soil or --

A. In the vegetation. And on the north side of that building, there's a lot of manure --

Q. Okay.

A. -- and piles of manure, and they piled everything from that sale barn out there.

Q. Okay. The areas where you had your burn piles there, was that part of the area where this manure and materials were piled?

A. Yes. North of the building? Yeah.

Q. Okay. What about the pile that was on the east -- the burn pile that was on the east side of the building?

A. That was just the other area.

Q. Now, was that flat ground there?

A. That there was fairly flat, yeah.

Q. Okay.

A. Nothing like the north side.

Q. But -- okay.

24

MR. APPLETON: Thank you.

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HEARING OFFICER: Thank you, Mr. McMeekan.

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MR. APPLETON: I just have one more witness if

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I can call him.

4

(A pause was had in the record.)

5

(Witness sworn.)

6

GREGORY MCHUGH,

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called as a witness, after being first duly sworn, was

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examined and testified upon his oath as follows:

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DIRECT EXAMINATION

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BY MR. APPLETON:

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Q. Would you state your full name?

12

A. Gregory McHugh.

13

Q. And how are employed by Mercer County?

14

A. I've been the state's attorney since December

15

of 2000.

16

MS. RYAN: Objection. He's not on the witness

17

list.

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HEARING OFFICER: Mr. Appleton?

19

MR. APPLETON: There was no formal witness

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list. We disclosed that we -- in the pretrial that we

21

were going to be calling several officials from the

22

county.

23 MS. RYAN: My notes indicate there were two
24 people from the county board and one zoning officer, who

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1 we've had testify here today. There was nothing about
2 anyone else or any state's attorney being called to
3 testify.

4 MR. APPLETON: Well, the state's attorney
5 doesn't represent the Mercer County Board.

6 HEARING OFFICER: Anything further,
7 Mr. Appleton?

8 MR. APPLETON: No.

9 HEARING OFFICER: Okay. I'm going to sustain
10 the objection. According to my notes, we -- when you
11 exchanged witness lists over the telephone on the 19th for
12 our final prehearing status call, you disclosed
13 Mr. Wallace Green, Jim Barnes, and the zoning officer,
14 Mr. -- don't have his name here, but the zoning officer,
15 Mr. Regnier, who testified earlier.

16 MR. APPLETON: Then I would ask the Court to
17 take judicial notice of the complaint that was filed in
18 Mercer County Court. There's a copy of it I have marked
19 as Exhibit H.

20 MS. RYAN: You guys have enough paper here.

21 HEARING OFFICER: And this is a true copy?

22 MR. APPLETON: Yes.

23 HEARING OFFICER: Okay. Thank you.

24 MS. RYAN: I have no objection.

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1 MR. APPLETON: Nothing further.

2 HEARING OFFICER: I would -- I'll admit
3 Exhibit H and take judicial notice -- or the board will, I
4 believe, take judicial notice of the chancery case labeled
5 as Exhibit H, and I'll accept that into the record.

6 MR. APPLETON: Nothing further, Your Honor --
7 Mr. Hearing Officer.

8 MS. RYAN: He's got it now.

9 MR. APPLETON: I'm used to the trial court
10 system.

11 HEARING OFFICER: Thank you. See if I have
12 anything.

13 Ms. Ryan, anything in rebuttal?

14 MS. RYAN: No, thank you.

15 HEARING OFFICER: Okay. Thank you. Okay
16 then. At this point, I would like to go off the record
17 for just a moment to discuss the availability of the
18 record and the submission of post-hearing briefs, and we
19 will be right back on. Thank you.

20 (A discussion was held off the record.)

21 HEARING OFFICER: Okay. We're back on the

22 record. We've just had a brief off-the-record discussion
23 regarding the filing of post-hearing briefs, and the
24 parties have agreed to a briefing schedule. Before we get

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1 to any closing arguments, if we have any, I'll go ahead
2 and read that schedule into the record. The transcript of
3 these proceedings today will be available from the court
4 reporter by March 6th, 2002. I'll establish a short
5 public comment period of 14 days pursuant to the board's
6 procedural rules. The Agency's brief will be due by March
7 20th; the mailbox rule will apply. And Mr. Krstic's brief
8 will be due by April 3rd, 2002, and the mailbox rule will
9 apply. The transcript is usually put on the board's web
10 site within a few days after its availability.

11 I would just like to note quickly that our web
12 site address is www.ipcb.state.il.us. Any post-hearing
13 comments filed by the public must be filed in accordance
14 with Section 101.628 of the board's procedural rules. The
15 mailbox rule set forth at Section 101.102(d) and
16 101.144(c) will apply to any post-hearing public comments.

17 Does either party wish to make a closing
18 argument now, or would you like to reserve those for your
19 briefs?

20 MS. RYAN: I would reserve mine for briefs.

21 MR. APPLETON: I as well.

22 HEARING OFFICER: Thank you, Mr. Appleton.
23 Anything further from either of the parties
24 before we conclude?

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1 MS. RYAN: No, thank you.

2 MR. APPLETON: Nothing further.

3 HEARING OFFICER: Okay. At this time, I would
4 like to note again there are no members of the public
5 present.

6 I'm required to make a statement as to the
7 credibility of witnesses testifying during the proceeding
8 today. This statement is based upon my legal experience
9 and judgment and, accordingly, I state that I found all
10 the witnesses testifying to be credible today.
11 Credibility should not be an issue for the board to
12 consider in rendering a decision in this case.

13 At this time, I'll go ahead and conclude the
14 proceedings. It's Thursday, February 21st, 2002, at
15 approximately 11:35 in the morning. We stand adjourned.
16 Thank you all for your time. Have a good day and drive
17 safely.

18 (The proceedings were terminated at 11:35
19 o'clock a.m.)

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2 STATE OF ILLINOIS :
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4 COUNTY OF PEORIA :

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I, JENNIFER E. JOHNSON, Certified Shorthand Reporter, Registered Merit Reporter, Notary Public in and for the County of Tazewell, State of Illinois, do hereby certify that the foregoing transcript of proceedings is true and correct to the best of my knowledge and belief;

9

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

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JENNIFER E. JOHNSON
License #084-003039
Certified Shorthand Reporter
Registered Merit Reporter
Notary Public, State of
Illinois at Large

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My Commission expires May 8, 2005.

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