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ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF JACKSON,)
)
Complainant,)
)
vs.) AC 04-63
) AC 04-64
) (Administrative Citation
) (Consolidated)
)
EGON KAMARASY,)
)
Respondent.)

Proceedings held on November 22, 2004,
at 11:00 a.m., at the offices of the Jackson County
Health Department, Murphysboro, Illinois, before Carol
Webb, Hearing Officer.

Reported by Holly A. Schmid, CSR

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A P P E A R A N C E S

MR. DANIEL W. BRENNER
Assistant State's Attorney
Courthouse
Murphysboro, IL 62966

In behalf of Jackson County;

MR. GREGORY VEACH
Attorney (s) at Law
3200 Fishback Road
Carbondale, IL 62903

In behalf of the Respondent.

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PROCEEDINGS

(November 22, 2004, 11 a.m.)

Good morning. My name is Carol Webb. I'm a hearing officer with the Illinois Pollution Control Board. This is the hearing for AC 04-63 and 04-64, Jackson County versus Egon Kamarasy. It is November 22, 2004. We are beginning at 11 o'clock a.m. I will note for the record that there are several members of the public present, but they are here to testify on behalf of Mr. Kamarasy. Members of the public are allowed to provide public comment, if they so choose.

At issue in this case is the County's allegation that Mr. Kamarasy violated the Environmental Protection Act at two sites, 786 Greenridge Road in Carbondale, and the eastern end of Starvation Acres Road in Makanda, Jackson County. You should know that it is the Pollution Control Board, and not me, that will make the final decision in this case. My purpose is to conduct the hearing in a neutral and orderly manner, so that we have a clear record of the proceedings.

I will also assess the credibility of any witnesses on the record at the end of the hearing. This hearing was noticed pursuant to the Act and the

1 Board's rules, and will be conducted pursuant to
2 Sections 101.600 through 101.632 of the Board's
3 procedural rule. At this time, I would like to ask the
4 parties to please make their appearances on the record.

5 MR. BRENNER: Daniel Brenner, Assistant State's
6 Attorney for Jackson County Health Department.

7 MR. VEACH: Gregory Veach, V, as in Victor,
8 E-A-C-H. I'm an attorney for the Respondent,
9 Mr. Kamarasy.

10 MS. HEARING OFFICER: Are there any preliminary
11 matters to discuss on the record?

12 MR. VEACH: I'm not aware of any.

13 MS. HEARING OFFICER: Okay. Mr. Brenner, would
14 you like to make an opening statement?

15 MR. BRENNER: I will waive that.

16 MS. HEARING OFFICER: Okay. Please go ahead and
17 present your case.

18 MR. BRENNER: Okay. If I may, Mr. Veach, I have
19 supplied you some documents. You've looked these over.
20 I think I have identified them as P1 through P26. Is
21 there any objection to any of those because what I want
22 to try to do is streamline this and get these entered
23 in.

24 MR. VEACH: Subject, of course, to

1 cross-examination. And that was P1 through P26?

2 MR. BRENNER: Yes.

3 MR. VEACH: These are the ones you gave me,
4 right?

5 MR. BRENNER: You should have them. Make sure
6 you do. I will ask that these be entered on the record.
7 I've identified them as Plaintiff's Exhibit 1 through
8 26.

9 MS. HEARING OFFICER: And there's no objection
10 from Respondent on admitting these into evidence?

11 MR. VEACH: No objection.

12 MS. HEARING OFFICER: Then this group is
13 admitted into evidence as Exhibit 1.

14 MR. BRENNER: Okay. I would call Don Terry.

15 Don Terry, called as a witness, having
16 been duly sworn in, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BRENNER:

19 Q. Mr. Terry, please state your name and
20 spell your name for the record, please.

21 A. Don Terry, D-O-N, T-E-R-R-Y.

22 Q. And what is your occupation?

23 A. I'm a solid waste inspector for the
24 Jackson County Health Department.

1 Q. And how long have you been engaged in that
2 occupation?

3 A. Seventeen months.

4 Q. Would you please briefly tell us what you
5 routinely do.

6 A. I investigate situations of open dumping,
7 open burning within the county and then take action
8 where appropriate.

9 Q. Have you received any special training
10 related to this occupation?

11 A. Yes, I did.

12 Q. What is that?

13 A. I went through the inspector training
14 course which was designed by the environmental --
15 Illinois Environmental Protection Agency, and all of us
16 inspectors go through that.

17 Q. Do you have -- do you hold any specific
18 licenses or certifications?

19 A. I have a certificate from IEPA certifying
20 that I am inspector for solid waste sites.

21 Q. Does the health department have a
22 delegation agreement with the Illinois Environmental
23 Protection Agency?

24 A. Yes, it does.

1 Q. Does that agreement provide for the
2 enforcement by this agency of certain types of
3 open-dumping violations?

4 A. Yes, it does.

5 Q. Are the present administrative citations
6 and enforcement actions within that delegation?

7 A. Yes, they are.

8 Q. Are you familiar with the Respondent, Egon
9 Kamarasy?

10 A. Yes.

11 Q. Did you inspect his site on March 25,
12 2004? I want to refer to -- there's two sites here.
13 I'm going to identify this as 0778095036. Is that
14 enough identification to know what site I'm talking
15 about?

16 MR. VEACH: Not for me. Could you tell me what
17 one it is?

18 MR. BRENNER: Yes. That site will be identified
19 as the Makanda site.

20 MR. VEACH: That relates to AC 04-63, then, does
21 it not?

22 MR. BRENNER: Let me make sure of that. Yes.
23 That is correct. That is, originally, AC 04-63. Are we
24 on the same page on which one we're talking about?

1 MR. VEACH: I'm sorry for the interruption.

2 MR. BRENNER CONTINUES:

3 Q. Where, generally, is this site located?

4 A. It's in an unappropriated area of the
5 county south of Carbondale on a road known as Starvation
6 Acres.

7 Q. Who owns this site?

8 A. Mr. Kamarasy.

9 Q. What did you observe the day of your
10 inspection?

11 A. The day I inspected it on March 25, 2004,
12 I observed a large pasture field which was fenced, and a
13 large debris pile, approximately, 100 yards east of a
14 gate. The debris pile consisted of dimensional lumber
15 appearing to be siding and other construction demolition
16 debris, approximately, 100 cubic yards.

17 Q. Are there any dwelling units on this site?

18 A. There were no dwelling units on this site,
19 no.

20 Q. Do you know what the present use of this
21 site is?

22 A. As far as I could determine, it's
23 unimproved and used for agriculture.

24 Q. Do you know the size of this site?

1 A. According to the Jackson County Assessor's
2 Office, it's 40 acres.

3 Q. I'm going to hand you what I have
4 identified as Exhibit 1. Specifically, I have marked on
5 this P7. I will give Mr. Veach an opportunity look at
6 that.

7 A. Okay.

8 Q. Can you identify that document?

9 A. Yes. This is a photo I took of the site
10 on March 25.

11 Q. Who took the picture?

12 A. I took this picture.

13 Q. Does the photo accurately and fairly
14 depict the site's condition as you observed it that day?

15 A. Yes, it does.

16 Q. I want to hand you what I have
17 collectively identified as P1 through P6, which is the
18 County's Exhibit 1 in this matter, and ask that you
19 identify those documents, if you would, please.

20 A. The first page is the affidavit I signed
21 stating that the inspection was done, that I'm an
22 inspector for the health department, and P2 is the first
23 page of my inspection narrative, along with violations
24 on P3. Four is a map that I drew.

1 Q. Does that inspection report fairly and
2 accurately identify what you found on the site on that
3 day?

4 A. Yes, it does.

5 Q. Did you prepare these documents?

6 A. I prepared them, yes.

7 Q. Do you know where the debris came from?

8 A. As far as I know, it came from off-site.

9 Mr. Kamarasy and I spoke on the phone in January, and he
10 had informed me that he was doing demolition work on
11 some mobile homes at his mobile home park, and was
12 bringing material to this site.

13 Q. Had you previously inspected this site?

14 A. Yes, I did.

15 Q. When was that?

16 A. That was December 5, 2003.

17 Q. Could you tell us what you saw that day?

18 A. On that day, it was a cloudy, drizzly day.

19 I saw the same field. There were horses in the field,
20 and I saw a debris pile, approximately, in the same
21 location about 100 yards from the gate containing the
22 same materials, the construction demolition materials.

23 Q. I want to hand you what I have identified
24 as Exhibits P10 and P11, and if you will, please

1 identify those documents.

2 A. These are photos I took of the site on the
3 December 5, 2003, inspection.

4 Q. Do the photos accurately identify and
5 fairly depict the site's condition as you observed them
6 that day?

7 A. Yes, they do.

8 Q. Mr. Terry, I want to now hand you what I
9 have identified as P8 and P9, and ask if you can
10 identify those documents.

11 A. These are the inspection report and
12 checklist for the December 5, 2003, inspection.

13 Q. And you prepared those documents?

14 A. I prepared these documents, yes.

15 Q. Do they fairly and accurately represent
16 what you observed that day?

17 A. Yes, they do.

18 Q. Had anything changed from the inspection
19 in December of `03 to your inspection of March of `04?

20 A. I could detect very little, if any,
21 change.

22 Q. Has the site been issued a permit by the
23 Illinois EPA to store the waste items you noted in your
24 March, `04, inspection report?

1 A. There's no report of EPA giving this site
2 any permit to do that, no.

3 Q. Is this site adjacent or contiguous with
4 any other real estate parcels owned or controlled by the
5 Respondent?

6 A. Not that I'm aware.

7 Q. I now want to move on to the second site,
8 which is identified as the Carbondale site, which was
9 originally AC 04-64, and that has a site code of
10 0778125013. Do you know the site I'm talking about?

11 A. Yes, I do.

12 Q. Did you inspect this site?

13 A. Yes, I did.

14 Q. On what date was that?

15 A. March 25, 2004.

16 Q. Where, generally, is this site located?

17 A. It is in an unincorporated area of the
18 county, also.

19 Q. Who owns the site?

20 A. Mr. Kamarasy.

21 Q. And what did you observe the day of your
22 inspection?

23 A. On March 25, I observed a waste pile of,
24 approximately, 10 cubic yards of material. The waste

1 pile contained ash and charred remains of demolition
2 lumber. There, also, would appear to be mattress
3 springs and other charred metals within the pile.

4 Q. Mr. Terry, I want to now hand you what
5 I've identified as P24 through P26, and ask if you can
6 identify what those documents are.

7 A. These are the photos that I took of the
8 site on the March 25, 2004, inspection.

9 Q. Do the photos accurately depict the site's
10 condition as you observed them that day?

11 A. Yes, they do.

12 Q. I now want to hand you what I have
13 identified as P12 through 15, as well as P22 and P23,
14 and ask if you can identify those documents, please.

15 A. Yes. These are my inspection report for
16 the March 25 inspection.

17 MR. VEACH: I'm sorry. Which P?

18 MR. BRENNER: I'm sorry. P13.

19 MR. BRENNER CONTINUES:

20 Q. Please identify what you are looking at
21 right now.

22 A. I'm looking at P13, and this is my
23 inspection report of March 25, 2004. P14 is a
24 continuation of that with the violations; P15 is the map

1 I drew of the site; P22 is my inspection narrative for
2 the March 25, 2004, inspection, and P23 is the
3 inspection checklist for the March 25, 2004, inspection.

4 Q. Do the reports accurately reflect the
5 circumstances and observations at the time of your
6 inspection?

7 A. Yes, they do.

8 Q. Do you know where the debris came from?

9 A. I would have to say it came from off-site,
10 since there are no dwellings on the site.

11 Q. Had you previously inspected this site?

12 A. Yes, I did. I inspected it on March 11,
13 2004.

14 Q. Can you tell us what you saw that day?

15 A. On that day, I saw a debris pile
16 containing landscape waste, couches, mattresses,
17 demolition lumber and other materials, approximately, 16
18 cubic yards.

19 Q. I now am going to hand you what I have
20 identified as P12 through P21, and ask if you can please
21 identify what those documents are.

22 A. P19, 20 and 21 are the inspection photos I
23 took on my March 11, 2004, inspection of that site.

24 Q. And do the photos accurately and fairly

1 depict the site's condition as you observed them that
2 day?

3 A. Yes, they do.

4 Q. I now would like to hand you a document
5 that I have identified as P16 through P18, and if you
6 will, identify those for me.

7 A. P16 through 17 are my inspection narrative
8 reports for the March 11 inspection of this site, and
9 P18 is the inspection checklist for the same site for
10 the same date.

11 Q. And do those reports accurately reflect
12 the circumstances and observations at the time of your
13 inspection?

14 A. Yes, they do.

15 Q. Had anything changed from your first
16 inspection to the last inspection?

17 A. The material on my second inspection had
18 been burned.

19 Q. Has the site been issued a permit from the
20 EPA to store the waste items you noted in your March,
21 '04, inspection report?

22 A. No, it has not.

23 Q. Is this site adjacent or contiguous with
24 any other real estate owned or controlled by the

1 Respondent?

2 A. The Respondent has a parcel directly to
3 the east of this particular site, and I could not
4 determine if there was any other parcels of land that
5 the Respondent owned that is adjacent to it.

6 Q. What is that site adjacent to? Are there
7 any improvements on that property?

8 A. No. It's unimproved.

9 MR. BRENNER: That's all the questions I have of
10 this witness.

11 MS. HEARING OFFICER: Mr. Veach.

12 MR. VEACH: Thank you.

13 CROSS EXAMINATION

14 BY MR. VEACH:

15 Q. Mr. Terry, the 17 -- or the training at
16 IEPA, was that before you were retained or hired 17
17 months ago?

18 A. No. It was after I was hired.

19 Q. And you say you hold -- as a result of
20 that, you received a certificate from IEPA authorizing
21 you to conduct inspections of solid waste sites?

22 A. Yes, non-hazardous solid waste sites.

23 Q. And what other experience in this field do
24 you have before 17 months ago, if any?

1 A. There was none.

2 Q. I guess I want to refer to case No. 04
3 AC-63, the so-called Makanda Kamarasy site?

4 A. Yes.

5 Q. I think you have maybe in front of you P2.
6 Is that your narrative inspection report document?

7 A. Yes.

8 Q. Dated March 25. You told Mr. Brenner that
9 you prepared this. Was it prepared on March 25 of 2004?

10 A. It would have been prepared within a day
11 or two I would estimate.

12 Q. Did you prepare P2 from your memory and
13 the photographs you had taken, or were there other notes
14 that you prepared on site on March 25, `04?

15 A. Generally, I use field notes, and I bring
16 them back to the office.

17 Q. Did you provide your field notes to your
18 counsel in this case?

19 A. No, I did not.

20 Q. Do you have those with you today?

21 A. No, I do not.

22 Q. With respect to P3, which is the next
23 page, it says, "Continuing violations observed." Is
24 that something you prepared? Did you prepare it on the

1 same day that you prepared P2?

2 A. Yes.

3 Q. So that would have been a day or so after
4 March 25?

5 A. Yes.

6 Q. Now, on P3, there's an item No. 7,
7 parenthesis, 21, parenthesis, small E. Do you see where
8 I'm referring to on P3?

9 A. Yes, I do.

10 Q. In that paragraph, you're stating that you
11 observed a violation of the Pollution Control Act on
12 March 25? Is that what you're stating in that item?

13 A. Yes.

14 Q. So you observed the disposal treatment
15 storage or abandonment of waste or transportation of
16 waste into the state or to this site on that date? Did
17 you observe those activities?

18 A. I observed the open dumping of it.

19 Q. So -- did you see someone dump the
20 materials on March 25 on this site?

21 A. No, I did not.

22 Q. Wasn't there vehicles at the site when you
23 took the picture?

24 A. No, there were not.

1 Q. On March 25. So what you observed on
2 March 25 was the pile of materials on this site, and you
3 concluded from that observation that disposal treatment
4 and storage or abandonment of waste occurred. Is that
5 fair?

6 A. That's fair, yes.

7 Q. So based on what you saw on March 25 at
8 this site, did you really believe that transportation of
9 waste occurred?

10 A. Yes.

11 Q. But from where you don't know?

12 A. That is correct.

13 Q. I think you were asked -- and if not, I
14 will ask it again -- about the source of the materials
15 at the time you conducted this inspection on March 25.
16 What was your knowledge about the source of these
17 materials? Was that based on what Mr. Kamarasy told you
18 in January?

19 A. Correct.

20 Q. During the phone call?

21 A. Yes.

22 Q. Now, I want to refer you to, if I could,
23 P5, an open-dump inspection checklist. That looks like
24 a form with X's and boxes and a column.

1 A. Yes.

2 Q. Was that prepared at the same time you
3 prepared P2 and P3?

4 A. Yes.

5 Q. And on P5 and P6, that's part of the same
6 document, is it not?

7 A. Yes.

8 Q. You state that you observed several or you
9 have several boxes checked there that you believe you
10 observed. Is that correct?

11 A. That is correct.

12 Q. Again, you've checked the box that the
13 Respondent caused or allowed waste storage, waste
14 treatment or waste disposal without a permit?

15 A. Yes, I did.

16 Q. That's because you must have checked the
17 records of that EPA, and found no permit for this kind
18 of activity, correct?

19 A. I did not check any specific records, no,
20 but if it was a permitted site within the county, I
21 would be the individual who would be asked to inspect it
22 if it was not a hazardous waste, solid waste site.

23 Q. And you observed causing or allowing open
24 dumping on this site on March 25?

1 A. Yes.

2 Q. And that, again, is because you saw the
3 materials that are depicted in the photographs you took.
4 Is that correct?

5 A. That is correct.

6 Q. You didn't see anybody come in there and
7 dump any materials?

8 A. No, I did not.

9 Q. And the only knowledge you have had on
10 March 25 of the source of the materials came from the
11 Respondent in your phone call in January.

12 A. And the fact that, since this was a large
13 field with no apparent buildings on the site, that it
14 had to have come from somewhere, other than that site.

15 Q. Other than this 40-acre site? Indeed, you
16 had found out in January from the Respondent that he had
17 moved abandoned mobile homes from a mobile home park he
18 owned to this site. Is that correct?

19 A. I believe he said he was demolishing them
20 at the site, and moving the material to the site.

21 Q. That's your recollection of that telephone
22 call?

23 A. That is.

24 Q. P5 indicates that no samples or tests were

1 taken while you were there or at any other time I guess,
2 right?

3 A. That is correct.

4 Q. So would it be fair to say that, while you
5 were there for the period of time you indicate you were
6 there on March 25 of 2004, that you observed nothing
7 escaping from the pile?

8 A. That is correct.

9 Q. And you observed nothing being discharged
10 into the ground or the air or the water during that
11 observation. Is that correct?

12 A. Yes.

13 Q. And nothing being emitted into the
14 environment on this date from this pile. Is that
15 correct?

16 A. That's correct.

17 Q. And when you were there on March 25 or
18 March 11, did you -- or December 5, I'm sorry, of 2003
19 -- did you see anything, any waste treatment occurring
20 there or was the pile just sitting there?

21 A. It was just sitting there.

22 Q. Was anybody present at the site on either
23 of those two occasions?

24 A. No.

1 Q. On the document P5 -- actually, it might
2 be P6. On P5, on item six on P5, you checked a box that
3 "Respondent conducted waste storage, treatment or
4 disposal operation in violation of regulations or
5 standards adopted by the Board." You didn't identify
6 those regulations, though, in your report, did you? I
7 mean, it doesn't give a number for any regulation or any
8 standard, does it?

9 A. This was for the March 25?

10 Q. Yes. I'm looking at P5.

11 A. No. There's no --

12 Q. Let's turn to the AC 04-64 site that has
13 been referred to as Greenridge Road or Carbondale
14 Kamarasy. I think I will refer to P13, at this point.
15 Was P13 prepared on March 25?

16 A. It would have been within a day or two.

17 Q. Again, prepared from notes, your own
18 personal notes that you took?

19 A. Yes.

20 Q. Which are not part of the record, correct?

21 A. Correct.

22 Q. With respect to P14, items -- Item
23 No. 7, parenthesis, 21, closed parenthesis, small E,
24 closed parenthesis, again accuses Respondent of

1 disposing, treating, storing, abandoning waste or
2 transporting waste into the state or the site, and after
3 that you've typed in, "Due to the location of the site
4 and the type and amount of the debris observed, it was
5 reasonable to assume that the waste was transported
6 there from somewhere else for purpose of disposal." Is
7 it fair to say that the violation you stated there is
8 based on your assumption, not from your direct
9 observation?

10 A. Yes.

11 Q. Over on this site again, this P -- I mean
12 this Carbondale Kamarasy site, did you see anybody dump
13 or off-loading or delivering or dumping or unloading any
14 of the materials that you saw there while you were
15 there?

16 A. On which date?

17 Q. On March 25.

18 A. No.

19 Q. How about on December -- on March 11?

20 A. On March 11, I did speak to a gentleman
21 who was in the field adjacent to this site who gave his
22 name as Mr. Taylor and said he worked for Mr. Kamarasy.
23 I asked Mr. Taylor on March 11 what he was doing. He
24 was cutting brush. He said he was instructed to place

1 the brush on the pile and burn the pile.

2 Q. On March 11, you made photographs, and I
3 think that is shown in P20 and P21. Is that correct?
4 Four photographs?

5 A. On the March 11?

6 Q. Correct, March 11, 2004.

7 A. Yes.

8 Q. Just go back. Was there anybody there,
9 besides this Jamie Taylor you spoke to on March 11,
10 2004?

11 A. No.

12 Q. Nobody arrived at the site during the five
13 minutes or so that you were there?

14 A. No.

15 Q. Mr. Taylor told you he was clearing brush,
16 and indeed, you see brush in that pile, don't you?

17 A. Yes.

18 Q. And you observed brush in that pile on
19 March 11, didn't you?

20 A. Yes.

21 Q. Did you tell Mr. Taylor on March 11 not to
22 burn the pile?

23 A. Yes, I did.

24 Q. Did you tell him that he could burn the

1 pile if he took out the couch or the mattress or any of
2 that or just told him not to burn the pile or any part
3 thereof?

4 A. I explained that burning the landscape
5 waste was permissible, but the other materials could not
6 be burned.

7 Q. So that's what you told him on March 11?

8 A. Yes.

9 Q. On P16, page 2 of P16, your March 11,
10 2004, report, second paragraph from the top says, "I
11 stated to Mr. Taylor that he was not to burn the pile,
12 and that, if he did, he would be held responsible for
13 open burning and open burning under Illinois law. Is
14 that what you told him on that day?

15 A. I would say that this is probably more
16 accurate, yes.

17 Q. So it wasn't just the pile or just -- it
18 wasn't the pile that he was not to burn. It was just
19 that mattress and that couch that's shown in P --

20 A. The mattress, the tires.

21 Q. The tires weren't in the pile, though,
22 were they?

23 A. No, they were not.

24 Q. Did he tell you what those tires were

1 doing there, by any chance? It's not mentioned in your
2 report.

3 A. No, he did not.

4 Q. On March 11, 2004, you didn't mention
5 having observed any burning on that date. Is that
6 correct?

7 A. That is correct.

8 Q. On March 25 of 2004 at this site, you
9 didn't witness any open burning, either, did you?

10 A. Just the evidence of it.

11 Q. You saw what is shown in your photographs
12 at P24 and P25 and P26. Based on the condition shown in
13 those photographs, you concluded that burning had
14 occurred?

15 A. Correct, yes.

16 Q. Do you know the origin of the materials
17 shown in your photographs taken March 11, which are P19
18 and P20?

19 A. I do not know the origin of those, no.

20 Q. And I will ask you the same question with
21 respect to the materials shown in P24, 25 and 26. Do
22 you know the origin of the materials shown in those
23 photographs?

24 A. No, I do not.

1 Q. And I think your P23 is the open-dump
2 inspection checklist form?

3 A. That is correct.

4 Q. You prepared that document?

5 A. Yes, I did.

6 Q. And it's dated March 25, isn't it?

7 A. Yes.

8 Q. And it indicates that no samples or
9 testing was done during the brief inspection you held on
10 that day. Is that correct?

11 A. That is correct.

12 Q. I would like to go back to the site,
13 briefly, in 04-63, and I would like to, in that vein,
14 refer you to P4. P4 is a map you prepared --

15 A. Yes.

16 Q. -- on or about March 25, 2004?

17 A. Yes.

18 Q. And it's a fairly accurate, isn't it, map
19 or depiction of the site and what you observed on March
20 25 of 2004?

21 A. Yes.

22 Q. On P4, there's a little small -- what is
23 called square, rounded edges or corners with a No. 1 in
24 it. Does that indicate where you stood when you made

1 the photograph?

2 A. The approximate location, yes.

3 Q. And that would have been the photograph
4 that we know as P7?

5 A. That is correct.

6 Q. So P7 was made from spot No. 1 on P4.
7 Now, I note in P4 there's a public road. I assume it's
8 a public road shown as Union Hill Road. Is that
9 correct?

10 A. Yes.

11 Q. Is that the road you traveled to get to
12 this site?

13 A. Yes.

14 Q. And then there is Starvation Acres Road
15 that looks I guess that is running east and west?

16 A. Yes.

17 Q. And so you turned off of Union Hill Road,
18 traveled Starvation Acres Road to the point of the gate
19 where you have marked "No. 1"?

20 A. Correct.

21 Q. And you traveled that with a vehicle?

22 A. Yes.

23 Q. When you got to the gate, and you took the
24 photograph shown as P7, did you open the gate and enter

1 the property?

2 A. No, I did not.

3 Q. The gate was closed or was it locked?

4 A. Well, it was definitely closed.

5 Q. I think did you say that you saw horses
6 there?

7 A. I saw horses during my December 5
8 inspection.

9 Q. Of this site?

10 A. Of this site, yes.

11 Q. And P10 shows a photograph of a stack of
12 hay and a sign "Bittersweet Farm" a phone number and a
13 "No Trespassing" sign, P10?

14 A. Yes.

15 Q. And that is a photograph that you took
16 from outside the gate?

17 A. Correct.

18 Q. And prior to December 5, or on December 5,
19 did you have a warrant to enter this property?

20 A. No.

21 Q. Did you have permission from Mr. Kamarasy
22 or anyone else to conduct the inspection that you did on
23 December 5?

24 A. No, I did not.

1 Q. But from -- after December 5, 2003, did
2 you have any -- and before January 9, 2004, did you have
3 any conversations or correspondence to the Respondent?

4 A. Would you repeat the dates, please?

5 Q. After your inspection of December 5 of
6 2003 at this Bittersweet Farms site, which we have
7 called Makanda Kamarasy?

8 A. Right.

9 Q. Did you send Mr. Kamarasy a letter or a
10 warning or anything of that nature to do something
11 about --

12 A. Yes, I did.

13 Q. Do you have that with you?

14 A. I do not believe I do, no.

15 Q. Now, is it true that -- that a violation
16 notice was issued by Bart Hagsdon of this department on
17 January 9 to Mr. Kamarasy regarding this site?

18 A. I don't know the date, but that's, yes,
19 Mr. Hagsdon would have issued the violation notice.

20 MR. VEACH: Is this already part of the record,
21 this letter?

22 MR. BRENNER: No. I don't believe so. It's
23 not.

24 MR. VEACH:

1 Q. Let me show you a document we have not
2 marked, but I will refer to as Respondent's 4 for
3 identification only.

4 A. This appears to be the violation notice
5 letter sent from the office to Mr. Kamarasy concerning
6 this site.

7 Q. Now, prior to that letter, did you have
8 any phone conversations, other conversations or did you
9 write any letters to Mr. Kamarasy regarding this site?

10 A. To the best of my remembering,
11 Mr. Kamarasy called me on or about January 16 and spoke
12 with me.

13 Q. I would like to get to that. Before that
14 occurred and after January or after December 5, `03,
15 your inspection of December 5, `03, was there any
16 communication between the two of you?

17 A. I don't recall any.

18 Q. I don't, either. Then you say that
19 Mr. Kamarasy called you on or about January 15. Is that
20 correct?

21 A. Yes.

22 Q. And did he say why he called you or did
23 you know why he called you?

24 A. He told me during the conversation.

1 Q. And he was calling you why?

2 A. He was explaining as to why the material
3 was there.

4 Q. Was he calling because he had received R4,
5 the violation notice of January 9?

6 A. I believe so.

7 Q. And during that conversation, did he
8 indicate to you that he had secured the services of some
9 individual or some company to remove the materials from
10 the site?

11 A. I don't recall that.

12 Q. There was some discussion, though, during
13 that conversation of January 15 on the telephone, was
14 there not, that Mr. Kamarasy believed he could have the
15 materials removed from the site by February 13 of 2004?

16 A. Yes.

17 Q. And then what I will refer to for
18 identification as R5, which is a copy of your letter of
19 January 16, 2004, to Mr. Kamarasy, your letter states
20 that "The letter is to act as confirmation in summary of
21 our phone conversation of January 15," correct?

22 A. Correct.

23 Q. So would it be fair to say that, after the
24 conversation on January 15, that Kamarasy was in

1 compliance, if the materials were removed by February
2 13?

3 A. And properly disposed of?

4 Q. Correct, yes.

5 A. Yes.

6 Q. If he met those two criteria, no
7 violation, right, no administrative citation?

8 A. Correct.

9 Q. And then, after February 13, or for that
10 matter, after December 5, your next visit to this site
11 was on March 25, correct?

12 A. Correct.

13 Q. And you made no other visits to the site
14 to determine any progress being made between December 5
15 and March 25?

16 A. I do not recall any.

17 Q. And on March 25, 2004, following your
18 inspection of this site, did you then contact
19 Mr. Kamarasy to find out why he hadn't done what you
20 thought he proposed to do?

21 A. No, I did not.

22 Q. Did you then recommend that an
23 administrative citation be filed with respect to this
24 site to either counsel or to your supervisor?

1 A. We have what is called an enforceable
2 decision group, and I asked for that, those members to
3 come together, and explain the situation and make a
4 decision.

5 Q. And that decision, obviously, was made and
6 the AC was filed in this case?

7 A. Yes.

8 Q. Have you made any visits to this site
9 since the March 25, 2004, inspection?

10 A. I believe I did a field visit. I was in
11 the area, and had just a few moments to drive down the
12 road.

13 Q. When was that?

14 A. I really don't recall.

15 Q. Do you recall what you saw?

16 A. It appeared as though the material had
17 been removed.

18 Q. Did you report that to Mr. Brenner or to
19 this enforcement group that you had mentioned earlier?

20 A. Well, the administrative citation had
21 already been filed.

22 Q. I would like to now go back, if I may -- I
23 apologize -- to AC 04-64 that Carbondale Kamarasy site
24 that we had referred to. With respect to this site,

1 your first visit to it was on March 11, 2004?

2 A. Correct.

3 Q. Location, 786 Greenridge Road?

4 A. Correct.

5 Q. P13 indicates the volume of waste at the
6 site to have been 10 cubic yards. I'm sure that that
7 was accurate or you wouldn't put it that way, would you?

8 A. Yes.

9 Q. Now, P15, which is dated March 25, 2004,
10 you prepared that, didn't you?

11 A. Yes, I did.

12 Q. And the numbers 1, 2, 3, 4, 5 and the
13 arrows all around it circled on this sketch indicate the
14 position you stood when you made the photographs that
15 are shown on P1 through 26, I guess. Is that correct?

16 A. Yes. Those are the approximate locations.

17 Q. I'm sorry, not P19 and 20, but on P24, 25
18 and 26. Those five photographs were taken from the
19 positions indicated on P15?

20 A. Yes.

21 Q. And so is it fair to say, with respect to
22 this site, you actually entered the Respondent's
23 property?

24 A. Yes.

1 Q. And did you enter that by walking or by
2 driving a vehicle?

3 A. I drove a vehicle.

4 Q. And did you have a warrant or any kind of
5 administrative or court order to enter this property on
6 March 11?

7 A. No.

8 Q. How about March 25?

9 A. No.

10 Q. And how far on March 11 -- no. Is there a
11 gate that you had to open to get to this pile?

12 A. No.

13 Q. You had to exit off Greenridge Road. Is
14 that shown on P15?

15 A. That is correct.

16 Q. And then you had to turn north off
17 Greenridge Road --

18 A. That is correct.

19 Q. -- to enter the property of the
20 Respondent?

21 A. Yes.

22 Q. But you're saying there was no gate that
23 was -- or fence, that the pile, as shown on P15, was not
24 enclosed by a fence and a gate?

1 A. There was a fence. There may have been a
2 gate, but it was not closed.

3 Q. So you took it on yourself to go right on
4 in, and take these photographs of what you believe to be
5 a violation of the Pollution Control Law, correct?

6 A. Correct.

7 Q. Could you see this pile shown on P15 from
8 any vantage point on this Greenridge Road?

9 A. You could, yes.

10 Q. You could?

11 A. Yes.

12 Q. With a naked eye?

13 A. Yes.

14 Q. Now, I'm curious. On March 11, 2004, you
15 made the first inspection of this Greenridge site. Did
16 you determine ownership of this site before you made the
17 inspection or after?

18 A. Usually, if I don't already know the site,
19 make it after by finding the parcel number and getting
20 information from the assessor's office.

21 Q. That's not what you did in this case,
22 though, is it?

23 A. I don't understand.

24 Q. Go to the assessor's office after you made

1 the inspection. You didn't go to the assessor's office
2 -- you didn't have to go to the assessor's office to
3 determine ownership of this site, did you?

4 A. I confirmed it, I believe.

5 Q. By going to the assessor's office?

6 A. No.

7 Q. It does say the site is owned by and it is
8 owned by Dr. Kamarasy. Now, it's stated -- I mean, on
9 March 11, you already had this open case for the Makanda
10 site from your December 5 inspection and you what? Just
11 happened upon this Greenridge Road site?

12 A. No, sir.

13 Q. Did you know it was there before you went
14 there on March 11 of '04?

15 A. Yes.

16 Q. How -- what was the basis of your
17 knowledge, source of your information?

18 A. One of our sanitarians had been in the
19 area and had observed the pile.

20 Q. Do you know when that observation was made
21 by that sanitarian?

22 A. I believe the same day. I believe March
23 11.

24 Q. After your inspection of this site on

1 March 11, did you call or write any letters to
2 Mr. Kamarasy, the owner of the site in question?

3 A. I do not recall.

4 Q. Was a violation notice issued similar to
5 the violation notice that we referred to as R4 with
6 respect to this site? I believe it was, was it?

7 A. I don't believe so.

8 Q. It wasn't. Did you have Mr. Kamarasy's
9 permission to enter the Greenridge Road site property?

10 A. No, I did not.

11 Q. This is the occasion on March 11 when you
12 entered the site and found Mr. Taylor working clearing
13 brush?

14 A. Yes.

15 Q. I have nothing further. Thank you.

16 MS. HEARING OFFICER: Any re-direct?

17 MR. BRENNER: No.

18 MS. HEARING OFFICER: Well, thank you very much,
19 Mr. Terry. Do you have anything further to present?

20 MS. BRENNER: We'll rest this portion of the
21 case.

22 MS. HEARING OFFICER: Mr. Veach, You may present
23 your case.

24 MR. VEACH: For the record, I would like to move

1 that both cases be dismissed, Madam Hearing Officer, for
2 the reason that it seems in both cases entry was made on
3 the Respondent's private property without a warrant and
4 without probable cause to enter, and as a result of
5 those entries, it's clear that the inspector, Mr. Terry,
6 made a number of photographs, and based on that,
7 prepared his reports, and that's the genesis for both
8 AC's in this case. I think that the Fourth Amendment of
9 the Pollution Control Act requires probable cause or a
10 warrant. None of those conditions are present in this
11 case, so I move for a dismissal on that basis at this
12 time.

13 MS. HEARING OFFICER: Mr. Veach, I do not have
14 the authority to grant that motion, but you have made
15 your point on the record, so if you would, please
16 proceed.

17 MR. VEACH: Thank you, Madam Hearing Officer. I
18 would like to call Mr. Kamarasy.

19 Egon Kamarasy, having been duly sworn in,
20 testified as follows:

21 DIRECT EXAMINATION

22 BY MR. VEACH:

23 Q. Will you state and spell your name.

24 A. Egon, E-G-O-N, Kamarasy, K-A-M-A-R-A-S-Y.

1 Q. And your address?
2 A. My address is 47 Egret Lake Road.
3 Q. Egret Lake?
4 A. E-G-R-E-T. Carbondale, Illinois, 62903.
5 Q. What is your age presently, Mr. Kamarasy?
6 A. I'm 85.
7 Q. And what is your occupation?
8 A. I'm a farmer.
9 Q. And your education?
10 A. I have a doctor's degree and a certificate
11 from SIU.
12 Q. You're retired now?
13 A. I'm retired, yes.
14 Q. Would you describe yourself as some sort
15 of environmentalist?
16 A. Yes. I'm definitely an environmentalist.
17 I plan, develop and was teaching a course on
18 environmental policy and politics at SIU for several
19 years.
20 Q. When was that?
21 A. In the 70's and early 80's. Now, that was
22 the development of the environmental system, which we
23 have today.
24 Q. Let's refer now to this 04-AC-63 case that

1 we have referred to as the Makanda Kamarasy, so you know
2 the site that I'm talking about?

3 A. Yes, I do.

4 Q. On this property, have you done anything
5 that you believe violated the pollution control law?

6 A. No. I don't think so. I didn't pollute
7 for sure.

8 Q. Do you refer to this Makanda Kamarasy site
9 as Bittersweet Farm?

10 A. Yes, Bittersweet Farm.

11 Q. And so the photograph Mr. Terry took that
12 is shown here on P10, the sign, is that your sign?

13 A. That's my sign and the photos are
14 accurate.

15 Q. And have we also referred to this site as
16 Starvation Acres because it's near Starvation Acres
17 Road?

18 A. Yes, we have.

19 Q. And it's located, as I just said, at the
20 end of Starvation Acres Road, as shown by Mr. Terry's
21 map?

22 A. On the east end, yes.

23 Q. P4 accurately shows that. Is that
24 correct?

1 A. Yes.

2 Q. Is this in -- Mr. Terry I think described

3 -- a rural area?

4 A. Yes. It's surrounded by open land. No

5 houses I don't think.

6 Q. Is it in an incorporated limits of a city?

7 A. It's not. It's all outside the city.

8 Q. What is the distance to the nearest

9 residence from the site of the material pile shown in

10 Mr. Terry's photographs?

11 A. Quarter of a mile.

12 Q. One quarter mile?

13 A. Yes, one quarter mile, yes.

14 Q. Now, do you own and operate a mobile home

15 park known as Raccoon Valley?

16 A. I do, yes.

17 Q. Where is it located in relation to this

18 Starvation Acres, Bittersweet Farm?

19 A. Raccoon Valley is located south of the

20 Starvation Acres site.

21 Q. How far?

22 A. Probably a mile or so.

23 Q. How long have you owned and operated the

24 Raccoon Valley Mobile Home Park?

1 A. Over 20 years.

2 Q. Are these mobile home parks inspected by
3 the Illinois Department of Public Health?

4 A. Yes. They are being inspected by the
5 Illinois Department of Public Health.

6 Q. How frequently does that agency inspect
7 your mobile home park?

8 A. The Illinois Department of Public Health
9 just inspects the mobile home park.

10 Q. How frequently or periodically? Once a
11 month? Once a year?

12 A. That is a yearly inspection, but
13 in-between that they come out whenever they wish and
14 inspect the place.

15 Q. On or about November of 2003, did the
16 Illinois Department of Public Health conduct an
17 inspection of Raccoon Valley Mobile Home Park?

18 A. Yes, they did. They did inspect that
19 mobile home park.

20 Q. After that inspection, did it issue to you
21 any letter or notice?

22 A. Yes. They wrote me a letter dated the
23 19th and asked me to remove the debris which was
24 originated from the demolition of two mobile homes.

1 Q. If I refer to you and counsel to R1 in
2 your trial memorandum, is R1 -- have you seen R1 before?
3 Is that the letter they sent you, the Department of
4 Public Health?

5 A. Yes. That's the letter I received, yes,
6 and the order to remove the rubbish from sites 12 and 13
7 in Raccoon Valley was a consequence of having the
8 trouble there because of I was ordered to remove those
9 three that have been abandoned.

10 Q. So you're telling us that the Department
11 of Public Health ordered you to remove the abandoned
12 structures from the mobile home park?

13 A. Yes, the Department ordered me to remove
14 those structures from the mobile home park.

15 Q. And did you receive the original of this
16 letter I have marked as R1 for identification?

17 A. Yes. I have the original. Previous to
18 this letter, there were several letters telling me to
19 remove abandoned mobile homes, and I could not find a
20 person acceptable to do it. Municipalities, the
21 municipalities have the power to remove those mobile
22 homes, and I called the Department, and they told me to
23 call the Jackson County Government because the county
24 government had the same power to remove abandoned mobile

1 homes as municipality people do, and after calling
2 several people that told me the sheriff would be the
3 person to do this, and the sheriff's department said
4 they were not set up to remove mobile homes, and so I
5 had to find some other way to do it.

6 Q. When you say -- is this abandoned mobile
7 home a situation -- is this something that has occurred
8 more than one time?

9 A. Unfortunately, it occurs quite frequently
10 where the mobile homes are abandoned. They, usually,
11 are not in the stage that they can be repaired. They
12 are abandoned because they are just no good.

13 Q. Have the mobile homes that are referred to
14 in R1 been abandoned by you or were they owned by the --

15 A. No. They were owned by the people who
16 rented the lot from me. I own only the lots.

17 Q. What -- how do you, generally, dispose of
18 the materials from these abandoned mobile home
19 structures?

20 A. We sort them out and take metal to Carco
21 for recycling, and send the unrecyclable material to the
22 landfill.

23 Q. Did you move or have employees move the
24 materials from Raccoon Valley to Bittersweet Farms that

1 are shown on P7?

2 A. Yes. We moved the material away from the
3 trailer court because we were under pressure by the
4 Illinois Department of Health. We were supposed to
5 remove it by December 12.

6 Q. So was there any material on the
7 Bittersweet Farm prior to your moving those mobile home
8 parks?

9 A. There was no material.

10 Q. After moving these mobile home parts from
11 Raccoon Valley to the Makanda site, what was done to
12 them?

13 A. I asked Mr. McMurphy to take them to the
14 landfill, and I had several phone conversations with
15 Mr. McMurphy, and he said, "It is too muddy to get in.
16 We have to wait, until it either freezes and it is hard
17 or dries up so we can drive in and move them."

18 Q. Was there any recycling of recyclable
19 materials done while --

20 A. Yes. We took metal to Carco's, yes.

21 Q. When you moved those mobile home
22 structures that have been abandoned at Raccoon Valley to
23 the Bittersweet Farm, did you know or believe that you
24 were violating the Pollution Control --

1 A. No. I believe I am not because I was
2 moving the debris from one property to the other, one
3 site to the other, and I believed that I could do this
4 because all the materials were created by me. I didn't
5 move anyone else's debris, just mine.

6 Q. In the process of moving these materials
7 from Raccoon Valley to Bittersweet Farm, was any
8 material -- did any material escape into the air or
9 water?

10 A. I don't think so. It was all very
11 carefully hauled there.

12 Q. Let's refer you to -- referring you to R2,
13 which is -- R2 is a copy of Mr. Terry's map, as he
14 described it accurately?

15 A. Yes.

16 Q. Do you recognize what is shown in R2?

17 A. Yes. I recognize this area that is shown
18 here, and I see the debris pile, which is probably 500
19 feet from the point where Mr. Terry was standing.

20 Q. It's a gate. He said there was a gate --

21 A. Yes. The gate is marked with G-A-T-E on
22 the map.

23 Q. And the distance from the gate to the
24 drawing that is shown as "debris pile" or designated as

1 the debris pile is how many feet?

2 A. 500 feet, and the point where Mr. Taylor
3 was standing, apparently, according to this map, is
4 another, at least, 20 feet, which is Point 1 on the map.

5 Q. Well, if one stood on the gate or at the
6 gate and looked toward the area designated as "debris
7 pile," and you saw what is shown on the photographs
8 Mr. Terry took on March 25, which I believe are March 11
9 -- I'm sorry, P19 and P20.

10 A. That's not the case.

11 Q. P7?

12 A. Yes.

13 Q. If you stood at the gate at Bittersweet
14 Farm, could you see that pile?

15 A. Yes. That pile is visible from the gate.

16 Q. The pile is visible from the gate, but
17 could a person reasonably determine what materials are
18 in that pile from the gate?

19 A. Not easily, but the pile shows --

20 Q. Did Mr. Terry -- did you know Mr. Terry
21 conducted the December 5 inspection of the Bittersweet
22 Farm?

23 A. I know only from the notice, which I
24 received later.

1 Q. Did any representative of Jackson County
2 Health Department or the state's attorney's office ever
3 ask for your permission to enter the property?

4 A. No.

5 Q. When did you first learn about Mr. Terry's
6 March --

7 A. I received the first violation notice to
8 which I responded by calling Mr. Terry.

9 Q. And the first violation notice -- by that,
10 you are referring to what we have marked as R4. Is that
11 what you are referring to?

12 A. Yes, that is correct.

13 Q. And that's letter dated January 9, 2004?

14 A. That is correct.

15 Q. Did you receive that letter?

16 A. Yes.

17 Q. What did you do in response to that?

18 A. I phoned Mr. Terry immediately, as soon as
19 I got it, and I told him where the debris comes from. I
20 told him the debris was moved there because I was under
21 pressure by the Illinois Department of Health to remove
22 the debris from the trailer court, and found the date,
23 which the violation notice stipulates for the removal of
24 the debris, which is February 13 acceptable.

1 Q. I want to back up. You mentioned
2 previously that you had contacted Mr. McMurphy for some
3 purpose.

4 A. Yes, Mr. McMurphy. I believe it was the
5 20th of December, and I asked Mr. McMurphy to take the
6 debris to the landfill, and his answer was several times
7 that he can't get in because it was too muddy.

8 Q. After the materials were moved to the
9 Bittersweet Farm, did you say earlier that some of the
10 materials had been cleaned and recycled?

11 A. Taken to Carco for recycling, yes.

12 Q. Was that done before March 25 of 2004?

13 A. Yes. It was almost a continuous process.

14 Q. Did anyone else bring materials to this
15 site and deposit them?

16 A. No. We have a lock on the gate. Nobody
17 else entered there. It was only my people who brought
18 only my material from Raccoon Valley to this site.

19 Q. Did Mr. McMurphy, was he ever able,
20 finally, to remove the materials to the landfill?

21 A. No. He could not because of the bad
22 weather.

23 Q. Did you ever get those materials moved?

24 A. Oh, yes. I asked CWI Company to come in

1 there. We field-dumped the material and all the
2 material was removed, and the site was cleaned up.

3 Q. Let me refer you to R3 for identification.

4 A. I have the bills here, yes.

5 Q. That's the bill for CWI?

6 A. Yes. That's the bill for CWI, and the
7 flats were delivered March 5, March 9, March 12, March
8 14, March 15 and removed. The last flat was removed
9 March 16.

10 Q. I believe that means April 16. I think
11 there was four.

12 A. Yes, April 16, yes. April 16 and the
13 place was cleaned up. There is nothing there now.

14 Q. R3?

15 A. Same --

16 Q. R3 is a copy of the original of this bill
17 or invoice?

18 A. Yes. That was my bill for May 2. The
19 date is here.

20 Q. What's -- the handwriting shows when you
21 paid the bill?

22 A. Yes. That's when I sent them a check for
23 \$1,784.

24 Q. Let's -- I want to go back to R4 for

1 identification, the letter dated January 9 of 2004 from
2 Bart Hagsdon, Coordinator of the Solid Waste Program
3 here at the health department, and you received R4?

4 A. Yes. I received that letter.

5 Q. In the mail?

6 A. I believe so, yes.

7 Q. And by the time you received R4, you had
8 already contacted McMurphy?

9 A. Well, that's a January 9 letter, and I
10 contacted Mr. McMurphy about 20 days earlier.

11 Q. After receiving R4, did you call
12 Mr. Hagsdon?

13 A. Yes, I did -- no. I didn't call
14 Mr. Hagsdon. I called Mr. Terry, whose telephone number
15 is on the letter.

16 Q. Do you know when you called Mr. Terry
17 after receiving R4?

18 A. I believe on the 15th, and Mr. Terry
19 answered the 16th.

20 Q. That's R5. Is that correct, a letter from
21 Mr. Terry to you?

22 A. Yes.

23 Q. When you spoke to Mr. Terry on January 15
24 or so of 2004, did you, at that time, indicate to

1 Mr. Terry that you would have these materials removed by
2 February 13?

3 A. Yes. I said so.

4 Q. Why did you say --

5 A. I said so because I believed we could do
6 it by February 13.

7 Q. Have you ever seen the original of R5, the
8 letter from Mr. Terry to you confirming your phone
9 conversation?

10 A. Oh, yes.

11 Q. You received that in the mail?

12 A. Yes.

13 Q. After your phone conversation and you
14 received R5, did you believe that you had some sort of
15 agreement with the health department regarding the
16 removal of these materials?

17 A. Definitely, I thought I had an agreement
18 to remove the stuff, and I still believe today that we
19 had an agreement to remove this stuff, and we had
20 removed immediately later than February 13.

21 Q. Was all of the materials shown in
22 Mr. Terry's photographs taken to the dump, or was there
23 landfill, or was there some material that was disposed
24 of in some other way?

1 A. Some metal was taken to Carco, but the
2 clear majority of the material was taken to the
3 landfill.

4 Q. Were any of the materials disposed of in
5 any other way, other than Carco Recycling, or landfill?

6 A. Only those two places.

7 Q. Was there any communication between you
8 and Mr. Terry after February 13 regarding this site?

9 A. No.

10 Q. Did any of the materials shown in any of
11 Mr. Terry's photographs, with respect to this site,
12 leach into the ground or the water?

13 A. No. They were all wood and plastic, which
14 did not leach or did not evaporate.

15 Q. Was any -- were any of these materials on
16 this site burned?

17 A. No. There was no fire there.

18 Q. Is there any materials on this site
19 presently? Are there any materials on this site
20 presently?

21 A. No.

22 Q. Let's go to 04-64. Do you own that site
23 that we referred to?

24 A. Yes. I own 64, which is listed as

1 Carbondale site, but it's in Pomona Township. It's not
2 in Carbondale.

3 Q. So it's located in Pomona Township. Is
4 that an unincorporated area?

5 A. Yes, unincorporated rural area.

6 Q. How would you describe the property?

7 A. It's surrounded by other farms, and I have
8 horses there, probably a couple hundred acres, and I
9 don't own a house on that particular site where the fire
10 was.

11 Q. Is your home site adjacent to the
12 Carbondale site that's been referred here in 04-64?

13 A. It was adjacent. It is part of the same
14 complex. I have now sold a small piece out of it, which
15 is where a lot --

16 Q. When did that occur?

17 A. It's only a three acres. It's still
18 adjacent.

19 Q. What type of farming operations?

20 A. I make only hay and raise horses.

21 Q. How long have you operated a farm at this
22 location?

23 A. Since the early 80's.

24 Q. Where is the nearest residence, other than

1 your own, to the pile of materials that Mr. Terry
2 photographed on this site?

3 A. There is one, which is about a quarter of
4 a mile east, and there's another house about a quarter
5 of a mile west.

6 Q. On this Carbondale Kamarasy site, have
7 you --

8 A. But there's nothing north or nothing
9 south.

10 Q. On this site, have you done anything that
11 you believe violates the Pollution Control Act?

12 A. No. I burned materials, which originated
13 from the farm and farm work and from my house.

14 Q. Did Mr. Terry or did you know that
15 Mr. Terry conducted the inspection of this site on March
16 11, 2004?

17 A. I found out later, yes.

18 Q. So you weren't asked for permission to
19 enter the site?

20 A. No, I was not.

21 Q. What about March 25, 2004?

22 A. No. I was not asked.

23 Q. Had you received any correspondence,
24 letters, or warnings from the health department

1 concerning this site before March 25 of 2004?

2 A. No, I was not.

3 Q. After March 25, 2004, did you receive any
4 warnings or letters or anything?

5 A. No. I have not received any violation
6 notice. I received only the AC.

7 Q. Administrative citation?

8 A. Yes.

9 Q. Referring to the photographs that
10 Mr. Terry took on March 11, which are P20 through P21.
11 Hold on. P19, P20, P21, I think, six photographs. Is
12 that right, Mr. Terry?

13 MR. TERRY: I believe so.

14 MR. VEACH CONTINUES:

15 Q. Tell us what we see in P19, for example.

16 A. 90 percent of all the materials on the
17 heap is branches and parts of trees. I see a couple of
18 feed sacks, originally from the farm, and the couch.
19 Mr. Terry told Mr. Taylor to remove the couch, and I
20 believe he did his best to do so. I don't see any
21 remains of the mattresses on the burning pile, which is
22 on page 21.

23 Q. Is this -- what is shown on P19, 20 and
24 21, is that located on your farm?

1 A. Yes. It's located on the farm.

2 Q. What's the distance from the county road
3 to the pile that is shown --

4 A. From the county road, to the gate, which,
5 normally, is locked, is 210 feet. From the gate, to the
6 pile, is 300 feet. The total distance from the road to
7 the pile is 510 feet, and the pile cannot be seen from
8 the road.

9 Q. Where did the materials that are shown in
10 P19 and P20 come from?

11 A. From the farm.

12 Q. How did the materials get into the pile
13 from your farm?

14 A. Well, if trees fall down into my pasture,
15 we have to cut them up and burn them, and some other
16 materials, which originate from my barn or the house,
17 sometimes I also burn. That material probably
18 constitutes less than five percent of the total burning
19 pile.

20 Q. What material constitutes --

21 A. What is not and trees and --

22 Q. Do you mean this thing that looks like a
23 couch?

24 A. A couch or a mattress.

1 Q. Was there a window air conditioner in that
2 pile?

3 A. No. There was no air conditioner. I
4 never owned one, and I didn't dispose of any.

5 Q. Was there any laminated counter top or
6 tops in that pile?

7 A. Old furniture, which comes from the house.
8 I don't know. I don't remember.

9 Q. Where did the lumber come from, if any,
10 that is shown in those photographs?

11 A. The construction materials that are shown
12 in the photograph comes from a fence, which is probably
13 not more than 100 feet from the pile, which is next to
14 the trough in which we gave water to our horses, a big
15 trough.

16 Q. Now, P24, P25 and P26 are photographs
17 Mr. Terry took on March 25 of 2004?

18 A. Yes, sir.

19 Q. Was the pile shown on P19, 20 and 21 --
20 it's all one pile, right?

21 A. Just one pile, yes.

22 Q. Was that pile burned between March 11 --

23 A. Yes. It shows where it was burned.

24 Q. Was there anything in that pile that did

1 not come from your farm or your home?

2 A. No.

3 Q. And your purpose in gathering these
4 materials to this one pile was what?

5 A. To avoid charge of littering. That's why
6 I very carefully piled the materials over there, and
7 that pile existed for years. We always burned the
8 material there and what was left over, the metals were
9 then recycled after we collected enough to take it to
10 Carco.

11 Q. Is that -- P20 to P24 looks like there's a
12 fence post in there. Where did that come from?

13 A. From the fence next door.

14 Q. Why would you be burning a metal fence
15 post?

16 A. Well, there was some Poison Ivy on it, and
17 the boys who worked for me didn't like to get Poison Ivy
18 on their hands, but the metal fence post didn't burn.

19 Q. Did you believe that burning the pile
20 shown on P -- on this site was a violation of the law?

21 A. No. I don't think so. It's all farm
22 material.

23 Q. Did you --

24 A. I have done it for years.

1 Q. Were you ever given a warning by the
2 Jackson County Health Department that burning these
3 materials might be illegal?

4 A. No, only administrative citation.

5 MR. VEACH: Your witness.

6 MR. BRENNER: No questions.

7 MS. HEARING OFFICER: Call the next witness,
8 then.

9 MR. VEACH: I think I will call Mr. Mays, Archie
10 Mays.

11 MS. HEARING OFFICER: Mr. Veach, I just want to
12 let you know we're going awfully long, and we do have
13 another hearing. If you could, please wrap up your case
14 within 30 minutes.

15 Archie Mays, having been duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MR. VEACH:

19 Q. You will need to tell us your name.

20 A. Archie, A-R-C-H-I-E, Mays, M-A-Y-S.

21 Q. Where do you live, Mr. Mays?

22 A. Raccoon Valley Mobile Home Court.

23 Q. In Jackson County, Illinois?

24 A. Yes.

1 Q. Do you know Mr. Kamarasy?

2 A. Yes.

3 Q. Are you familiar with his property we have
4 called Bittersweet Farm?

5 A. Yes.

6 Q. Does he own that property?

7 A. Yes.

8 Q. In December and January, December of `03
9 and January of `04, did you do anything with regard to
10 any pile of materials on that Bittersweet Farm?

11 A. You mean the stuff that was there you
12 mean?

13 Q. Yes.

14 A. We sorted the metal and got some good
15 two-by-fours and stuff to work on his fences with and
16 just stuff we could use on the farm there to fix things
17 up with.

18 Q. Do you know where those materials came
19 from?

20 A. Yes.

21 Q. Where?

22 A. They came from the house trailers.

23 Q. Which were located where?

24 A. Where they started out from you mean?

1 Q. Yes.

2 A. They came from Raccoon Valley Trailer
3 Court.

4 Q. P10 I'm here showing you, which is a
5 December 5 photograph by Mr. Terry. P11. Do those look
6 like what was there back then?

7 A. Yes.

8 Q. Did you take some of these materials and
9 sell them to a recycling --

10 A. Yeah. Some of them went to Carco. All
11 the metal went to Carco, and the lumber and stuff we
12 work on the barn and fences and stuff like that with,
13 two-by-fours and stuff that's usable.

14 Q. What was left, was it burned?

15 A. No.

16 Q. What was done with it?

17 A. I tried to get a hold of Mr. McMurphy, and
18 he said it was too soft to get his big truck in there,
19 so we got dumpers from the landfill in there.

20 Q. Do you know about when that was done?

21 A. Not date wise. I didn't keep track of any
22 of it, no.

23 Q. How long have you lived in Raccoon Valley?

24 A. About two years.

1 Q. Nothing further. Thank you.

2 MR. BRENNER: No questions.

3 Phillip McMurphy, having been duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VEACH:

7 Q. Would you state your name for the record.

8 A. Phillip McMurphy.

9 Q. And your address?

10 A. 714 Raccoon Valley Road.

11 Q. What's your occupation?

12 A. Excavator or dirt work.

13 Q. You own heavy equipment?

14 A. Yes.

15 Q. Do you know Mr. Kamarasy?

16 A. Oh, yeah.

17 Q. Did he contact you at any time in, say,
18 2003 to remove some materials from Bittersweet Farm?

19 A. Yeah. He called me. I don't know the
20 exact dates. It was in this time frame, but he called,
21 and it was at that time -- it was muddy, you know, and I
22 told him, I said, "Well, I will get to it as quick as we
23 can get in there." I have a big back hoe and tractor
24 trailer is what I was going to use. To make a long

1 story short, I explained to Egon, "It's so muddy. I
2 can't get in or out there." That's, basically -- then
3 he called me, and made contact with me, and I wrote a
4 letter explaining. I guess after he had gotten the
5 citation, he contacted me before, and then he called me
6 up, and said, "I've been issued a citation. We need to
7 move this stuff," and it was still too wet.

8 Q. So it's fair to say you agreed to do the
9 job?

10 A. I would have done it, if we could have got
11 in and out of there.

12 Q. But you couldn't complete it because you
13 couldn't get in and out?

14 A. It was terribly muddy.

15 Q. Did you inspect the pile of materials that
16 was involved?

17 A. No, sir.

18 Q. You saw it?

19 A. No. I never actually never seen the pile.
20 It was -- I was working at various other places and
21 just, when he called, I knew that, if I tracked the road
22 up, we were going to be in trouble there, so I couldn't
23 get my big equipment in there is the bottom line.

24 MR. VEACH: No further questions.

1 MR. BRENNER: No questions.

2 MR. VEACH: I now call Mr. Taylor, James Taylor.

3 James Taylor, having been duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. VEACH:

7 Q. State your name for her, please.

8 A. James Taylor.

9 Q. Where do you live, Mr. Taylor?

10 A. Raccoon Valley.

11 Q. And do you know Mr. Kamarasy?

12 A. Yes, sir, I do.

13 Q. Have you ever been employed by him?

14 A. Yes, I have.

15 Q. When was that?

16 A. Last year.

17 Q. Do you know about his property on
18 Greenridge Road? Do you know where it is?

19 A. Yes.

20 Q. Did you ever work for Mr. Kamarasy at this
21 location, meaning that Greenridge Road site?

22 A. Yes.

23 Q. Let me show you what we have been
24 referring to -- you've been hearing this -- what we have

1 been referring to as P19 and P20, and ask you if you
2 remember seeing what is shown in those photographs?

3 A. Yes.

4 Q. Did you -- was the pile that's shown on
5 those photographs, was it burned?

6 A. Some of it.

7 Q. Not all of it?

8 A. Not all of it.

9 Q. What part of it wasn't burned?

10 A. There was a couch I took out, and there
11 was a mattress I took out. Some of that stuff I
12 couldn't get to because I was by myself, and it was kind
13 of wet, and I couldn't get the tractor back into it.

14 Q. Did you -- were you employed to clear out
15 brush or clear out fencing? Is that where the material
16 was in that pile?

17 A. Yes.

18 Q. Now, are tires shown in one of those
19 photographs?

20 A. The tires I put to the side to take to the
21 place that takes the tires off in Murphysboro.

22 Q. Was that done?

23 A. Yes.

24 Q. Were the tires -- were any tires in that

1 pile burned?

2 A. No.

3 Q. Where did that couch and the mattresses
4 that are shown in P19 and 20 come from?

5 A. I believe one of them come out of Lane 2
6 (sic) on the barn and one of them come out of the barn.

7 Q. Mr. Kamarasy's barn?

8 A. Right.

9 Q. Do you know if there was any window air
10 conditioners in that pile?

11 A. No, there wasn't, but if there was, I
12 would have junked it.

13 Q. Do you know if there was any laminated
14 counter top or tops in that pile?

15 A. I think there was a sink in there that I
16 couldn't get to, but I took -- I got the counter top and
17 everything out. There was just a piece of a sink, a
18 metal piece.

19 Q. On March 11, 2004, Mr. Terry came to the
20 site, and he says you were there working. Do you
21 remember that occasion?

22 A. Yes, I do.

23 Q. Did Mr. Terry ask for your permission to
24 enter the property?

1 A. He was already on the property.

2 Q. Thanks. Nothing further.

3 MR. BRENNER: No questions.

4 Kerry Grunloh, having been duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. VEACH:

8 Q. Would you state and spell your name.

9 A. My name is Kerry Grunloh, K-E-R-R-Y,
10 G-R-U-N-L-O-H.

11 Q. Do you know Mr. Kamarasy?

12 A. Yes, I do.

13 Q. And are you familiar with the property
14 owned by Mr. Kamarasy located at what we call 786
15 Greenridge Road?

16 A. Yes.

17 Q. How come you're familiar with that
18 property? Do you work for him or what?

19 A. I rode horses for Egon during this time
20 period for about two years now, and I've been to both
21 sites.

22 Q. You've heard the testimony here today,
23 haven't you?

24 A. Yeah. I've been to both sites, and I have

1 just taken care of the horses, checking on them.

2 Q. How frequent? Did that require you to be
3 at the property that is on Greenridge Road?

4 A. As frequent as we rode. That's where we
5 kept our riding horses that we were currently riding at
6 that place.

7 Q. You have a document in front of you marked
8 P19. Did you ever see what's shown in P19 before?

9 A. No. I haven't seen this particular burn
10 pile with the couch on it, no.

11 Q. Have you seen a burn pile --

12 A. There has been burn piles there. They
13 come and go. That's normal. I have witnessed one burn
14 before as it is burning, but I have seen piles.

15 Q. What's in the piles that you have seen?

16 A. Well, they can be piles mostly of just
17 sticks and farm debris.

18 Q. Have you ever seen used tires in the pile?

19 A. No. I haven't seen used tires in the
20 pile.

21 Q. Did you ever see any window air
22 conditioners?

23 A. I've never seen an air conditioner in the
24 pile, no.

1 Q. Do you know the source of those materials
2 that you see in P1, where they came from?

3 A. The couch I do not. I have no idea where
4 the couch came from. There's some tires here, and I
5 have no idea what the source of those are, but the
6 sticks, they are probably -- they were probably cut from
7 the pasture when they clear out.

8 Q. Did you use tires or some parts of tires
9 in some way to feed horses out there?

10 A. Yes.

11 Q. Tell us what that's about.

12 A. Tires are used to hold salt blocks, the
13 rims in the tire, and that keeps -- they allow draining,
14 so the salt won't melt when it rains, and it also is a
15 good place to keep it off the ground so horses can
16 consume it.

17 MR. VEACH: Nothing further of this witness.

18 MR. BRENNER: No questions.

19 MS. HEARING OFFICER: Thank you.

20 MR. VEACH: Nothing further, except argument.

21 MS. HEARING OFFICER: Are you introducing any --

22 MR. VEACH: Yes. I would like to introduce R1
23 through 5 in case 04-63.

24 MS. HEARING OFFICER: Is there any objection?

1 MR. BRENNER: No objection.

2 MS. HEARING OFFICER: Respondent's Exhibits 1
3 through 5 are admitted.

4 MR. VEACH: And R1 in the case 04-64.

5 MR. BRENNER: No objection.

6 MS. HEARING OFFICER: That is admitted, as well.
7 Do you have anything further you would like to present
8 For your case?

9 MR. VEACH: Just, briefly, Your Honor, if I
10 might, there are five violations cited in both of these
11 citations. It occurs to me that everything is possible
12 for the hearing officer to recommend and anything is
13 possible for the Board to affirm or modify. As you all
14 know, the law is that, if the Respondent is found to
15 have violated 21-B of the Act or 21-0, whichever it is,
16 as a result, and takes the matter to a hearing, the
17 costs can be assessed. I just want to make this
18 argument for the record that we have two cases with five
19 violations, and I would, at this point, or at some later
20 point, like to be heard on the issue of costs in the
21 event the Board finds the Respondent violated one or two
22 or anything less than four violations. Beyond that,
23 that's all I have.

24 MS. HEARING OFFICER: Okay. That, of course,

1 would be something the Board would need to decide.

2 Okay. Well, if you're finished
3 presenting your case, I think we will go off the record
4 and talk about briefing schedule.

5 (Discussion was held off the record.)

6 MS. HEARING OFFICER: We've just had an
7 off-the-record discussion regarding post-hearing briefs.
8 The parties have agreed to a briefing schedule as
9 follows: First, the transcript of these proceedings
10 will be available from the court reporter by December 6,
11 2004, and will be posted on the Board's website soon
12 thereafter. The public comment deadline is December 20,
13 2004. Any public comment must be filed in accordance
14 with Section 101.628 of the Board's procedural rules.
15 The complainant's brief will be due January 10, 2005;
16 Respondent's brief will be due February 10, 2005.

17 If they choose to submit an additional
18 brief, Respondent has filed a memorandum supporting the
19 amended petition to contest the administrative citation
20 at hearing today. The mailbox rule will apply to all of
21 the briefs and complainant's reply, if any, is due
22 February 28, 2005. Mr. Brenner, would you like to make
23 a closing argument?

24 MR. BRENNER: No. I would not.

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MS. HEARING OFFICER: Mr. Veach?

MR. VEACH: No, Your Honor.

MS. HEARING OFFICER: Okay. Are there any members of the public here who would like to make any more comments on this particular case? Any public comments? Well, if there's nobody else here who would like to speak on this case, I will proceed to make a statement as to the credibility of the witnesses testifying during this hearing.

Based on my legal judgment and expertise, I find all of the witnesses testifying to be credible. At this time, I will conclude the proceedings, and I thank all of you for your cooperation. We stand adjourned. Thank you.

(The hearing was adjourned at 12:33.)

1 STATE OF ILLINOIS)
2 COUNTY OF ST. CLAIR)SS
3

4 I, Holly A. Schmid, a Notary Public in
5 and for the County of Williamson, DO HEREBY CERTIFY that
6 pursuant to agreement between counsel there appeared
7 before me on November 22, 2004, at the office of Jackson
8 County Health Department, Murphysboro, Illinois, all the
9 above witnesses, who were first duly sworn by me to
10 testify the whole truth of their knowledge touching upon
11 the matter in controversy aforesaid so far as they
12 should be examined and their examination was taken by me
13 in shorthand and afterwards transcribed upon the
14 typewriter, but not signed by the deponent, and said
15 deposition is herewith returned.

16 IN WITNESS WHEREOF I have hereunto set
17 my hand and affixed my Notarial Seal this 2nd day of
18 December, 2004.

19 _____
20 HOLLY A. SCHMID
21 Notary Public -- CSR
22 084-98-254587

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24