

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY)

-vs-

RAY NEWINGHAM)

) DOCKET AC 11-13
)

) **RECEIVED**
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STATE OF ILLINOIS
Pollution Control Board

Hearing held, pursuant to notice, on Wednesday,
November 2, 2011, at the hour of 10:00 a.m. at 621
S. Main Street, Carrollton, Illinois, before CAROL
WEBB, duly appointed Hearing Officer.

L.A. REPORTING SERVICE
(312) 419-9292

REPORTER: LAUREL A. PATKES, CSR #084-001340

1 APPEARANCES:

2 MICHELLE RYAN
3 Assistant Counsel
4 Division of Legal Counsel
5 1021 N. Grand Ave. East
6 Springfield, Illinois 62794

7 appearing on behalf of IEPA.
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I N D E X

WITNESS	DIRECT	CROSS
CHARLES WALTER KING, JR. BY MS. RYAN	6	

EXHIBITS

	IDENTIFIED	ADMITTED
IEPA Exhibit 1	8	14

1 HEARING OFFICER WEBB: Good
2 morning. My name is Carol Webb. This is the
3 hearing for AC 11-13, IEPA versus Ray Newingham. It
4 is November 2, 2011, and we are beginning at
5 10 o'clock a.m.

6 I will note for the record
7 that there are no members of the public present.

8 At issue in this case is the
9 Agency's allegation that respondent violated
10 Sections 21(p)(1) and (p)(7) of the Environmental
11 Protection Act at his site in Roodhouse, Greene
12 County.

13 This hearing was noticed
14 pursuant to the Act and the Board's rules and will
15 be conducted pursuant to Sections 101.600 through
16 101.632 of the Board's procedural rules.

17 At this time, I would like to
18 ask the parties to make their appearances on the
19 record.

20 MS. RYAN: Michelle Ryan, Special
21 Assistant Attorney General for the Illinois EPA.

22 HEARING OFFICER WEBB: Okay. And I
23 will note for the record that Mr. Ray Newingham is
24 not present at the moment. If he arrives later

1 during this hearing, I will be sure to announce
2 that.

3 Are there any preliminary
4 matters to discuss on the record?

5 MS. RYAN: No.

6 HEARING OFFICER WEBB: Okay. Would
7 you care to make an opening statement?

8 MS. RYAN: Yes.

9 We believe the evidence today
10 will show that on September 16, 2010, open dumping
11 resulting in litter and the deposition of
12 construction and demolition debris occurred at the
13 corner of Worchester and Clay Streets in Roodhouse,
14 Greene County, Illinois, and that there are no
15 defenses to this activity.

16 HEARING OFFICER WEBB: Okay. Would
17 you like to call your first witness?

18 MS. RYAN: Yes. We call Charlie
19 King.

20 HEARING OFFICER WEBB: Would the
21 court reporter please swear in the witness?

22 (Whereupon the witness was sworn
23 by the reporter.)

24

1 CHARLES WALTER KING, JR.
2 called as a witness herein, on behalf of IEPA,
3 having been first duly sworn on his oath, was
4 examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MS. RYAN:

8 Q. Can you state your name and spell
9 it for the court reporter, please?

10 A. Charles Walter King, Jr.; K-i-n-g.

11 Q. What is your job?

12 A. I am a field inspector/investigator
13 with the Illinois EPA.

14 Q. How long have you been a field
15 inspector with the EPA?

16 A. Twenty years.

17 Q. Did you work at EPA prior to
18 becoming a field inspector?

19 A. Yes, I did.

20 Q. And how long was that?

21 A. Five and a half years.

22 Q. And what did you do in that
23 position?

24 A. I was a grants administrator in the

1 Water Pollution.

2 Q. And what bureau do you work for
3 now?

4 A. Bureau of Land.

5 Q. What are your duties as a field
6 inspector?

7 A. I conduct RCRA hazardous waste,
8 landfill complaint investigations.

9 I also inspect on occasion
10 PIMW which is potential infectious medical waste
11 sites and compost facilities.

12 Q. What's your educational background?

13 A. I have an Associate's in Arts
14 degree from Parkland College in Champaign, Illinois.
15 I have a Bachelor's of Science degree from Illinois
16 State University, and I have a Master's in Science
17 degree from Illinois State University.

18 Q. Have you had any additional
19 training related to your job besides this
20 educational background?

21 A. On-the-job training, different
22 schools, different courses. I went to RCRA
23 hazardous waste inspection training in Colorado.
24 I've been to several MEEA (Midwest Environmental

1 Enforcement Association) trainings in Michigan and
2 St. Louis, Missouri and in Springfield, Illinois.
3 I've been in the Marine Corps for three years, and
4 some things that I've learned in the Marine Corps
5 apply. I was a manager of my own office, so I had
6 administrative experience.

7 Q. Are you familiar with the Newingham
8 property on the corners of Worchester and Clay in
9 Roodhouse?

10 A. Yes, I am.

11 Q. And who owns that property?

12 A. Ray Newingham.

13 Q. How many inspections have you done
14 at that property?

15 A. Approximately four.

16 Q. I'm going to show you what I have
17 had marked as Exhibit 1 for identification, and I'm
18 going to ask you if you recognize this document.

19 A. Yes, I do.

20 Q. And what is that?

21 A. This is my inspection report for
22 the inspection conducted on September 16, 2010.
23 It's preceded by a checklist, an open dump
24 inspection checklist, and then it has my narrative,

1 my reinspection report document, which is a
2 memorandum, and it also has a site sketch and
3 photographs of the site.

4 Q. Is this a fair, accurate and
5 complete copy of your report?

6 A. Yes, it is.

7 Q. Can you describe this property
8 generally?

9 A. The property consists of primarily
10 demolition wastes that were formed or occurred there
11 because two buildings collapsed in that community in
12 2009.

13 Q. And where is the corner of
14 Worchester and Clay with respect to Roodhouse?

15 A. It's approximately one block west
16 of the main part of the town or, I'm sorry, east,
17 east of the main part of the town; pretty much
18 centrally located.

19 Q. Who took the photographs attached
20 to your report?

21 A. I did.

22 Q. Okay. Starting with photograph
23 number 1, can you tell us what they show?

24 A. It's a picture of the site from the

1 northwest corner of Worchester and Clay Streets.

2 Q. Go ahead and continue through the
3 photographs.

4 A. Exposure 2 is the east side of the
5 site from the north side of Clay Street.

6 Photo number 3 is the site
7 from across Clay Street from the east side of the
8 site.

9 Photograph number 4 is looking
10 down the north side of the site from across Clay
11 Street.

12 Photograph number 5 is
13 demolition waste and a television on the north side
14 of the site. The television is in the foreground of
15 that photo.

16 Photograph number 6 is a gap
17 that shows a path to the basement on the north side
18 of the site, so in the rubble, you can look down
19 through and you can see the basement.

20 Q. Is that that black area sort of
21 toward the center?

22 A. Yes, that's correct, just right of
23 those bricks or just to the left of those bricks.

24 Sorry.

1 Photograph number 7 are two
2 gallons of compressed gas tanks, electrical
3 components, pipe, plastics, metals, vehicle battery,
4 and a road warning saw horse. It was extra waste
5 that seemed to be laying around or appeared to be
6 laying around.

7 Q. Now, the road warning saw horse,
8 that's not being used to mark off the site at this
9 point, is it?

10 A. It didn't appear to be used for
11 anything. It was just laying there.

12 Photograph number 8 is a
13 two-gallon compressed gas tank, conduits, metals,
14 plastics, stacks of bricks, wood pallets and wire.

15 Photograph number 9 shows some
16 stacked bricks, but it also shows the demolition
17 site or the collapsed buildings, the demolished
18 buildings and pallets with stacked bricks on them.

19 Photograph number 10 are piles
20 of asphalt, dirt and brick, a used tire. The brick
21 appears to be from the demolished buildings on site,
22 and the dirt and the asphalt appear to have been
23 brought in from off-site. They were not there
24 during previous inspections. The brick was but the

1 asphalt, the piles of asphalt and dirt and the used
2 tires did not appear to be there during previous
3 inspections.

4 Photograph number 11 is the
5 site from just beyond the southeast corner.

6 Photograph number 12 is the
7 south side of the demolished buildings.

8 Photograph number 13 shows
9 garbage and general household refuse in the
10 foreground and demolition waste throughout the site.

11 Photograph number 14 shows a
12 toilet, saw blade, wood, brick, metal and metal
13 desk, plaster, drywall, and a fan.

14 Photograph number 15 shows a
15 mattress, kitchen sink, plastic, metals, brick and
16 other demolition wastes.

17 Photograph number 16 shows PVC
18 pipe, corrugated hose, used tires, shingles, wood,
19 brick and metals.

20 Photograph number 17 shows
21 insulation, metals, wood and brick.

22 Photograph number 18 shows the
23 site from the southwest.

24 Photograph number 19 shows a

1 posted private property and no trespassing sign in
2 front of the demolition waste.

3 Photograph number 20 shows a
4 large hole in the site floor near the sidewalk along
5 the south side of Clay Street looking into the
6 basement of one of the collapsed buildings.

7 And photograph number 21 shows
8 carpet, wood, metal, bricks, pipes, conduit and
9 other waste.

10 Q. Do these photographs accurately
11 depict what you saw on September 16, 2010?

12 A. Yes, they do.

13 Q. Approximately when was this report
14 generated?

15 A. This report was generated on
16 October 6, 2010.

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

19 A. Yes, it does.

20 Q. Is it the regular course of
21 Illinois EPA's business to make such records at or
22 reasonably after the event reflected thereon?

23 A. Yes, it is.

24 MS. RYAN: At this time we'd move

1 Exhibit 1 into evidence.

2 HEARING OFFICER WEBB: Exhibit 1 is
3 admitted into evidence.

4 (Whereupon IEPA Exhibit 1 was
5 admitted into evidence at this
6 time.)

7 MS. RYAN: I don't have anything
8 further.

9 HEARING OFFICER WEBB: Mr.
10 Newingham is not here to cross-examine the Agency's
11 witness, and he is also not here to present his case
12 so let's go off the record for a minute and discuss
13 a briefing schedule.

14 (Whereupon an off-the-record
15 discussion transpired at this
16 time.)

17 HEARING OFFICER WEBB: Let's go
18 back on the record.

19 The transcript is due on
20 November 15th and will be posted on the Board's
21 website. The public comment deadline is
22 November 16th. Any public comment must be filed in
23 accordance with Section 101.628 of the Board's
24 procedural rules. The complainant's brief is due by

1 November 28th, and respondent's brief will be due by
2 December 12th.

3 If no brief is filed by
4 December 12th, the Board may assume that respondent
5 will not be filing a brief.

6 Ms. Ryan, would you care to
7 make any closing argument?

8 MS. RYAN: No. I'll reserve that
9 for my brief. Thank you.

10 HEARING OFFICER WEBB: Okay. At
11 this time, I will just again note that there are no
12 members of the public present, and Mr. Newingham is
13 not present so I will conclude the proceedings.

14 We stand adjourned. Thank
15 you.

16 (Whereupon the proceedings
17 adjourned at 10:20 a.m.)

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

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4

CERTIFICATE

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I, Laurel A. Patkes, Certified Shorthand Reporter in and for said County and State, do hereby certify that I reported in shorthand the foregoing proceedings and that the foregoing is a true and correct transcript of my shorthand notes so taken as aforesaid.

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I further certify that I am in no way associated with or related to any of the parties or attorneys involved herein, nor am I financially interested in this action.

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Laurel Patkes
Certified Shorthand Reporter

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