

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
PUBLIC HEARING

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Petitioner,)
)
vs.) No. AC-13-7
)
ROBERT MANKER,)
)
Respondent.)

TRANSCRIPT FROM THE PROCEEDINGS taken before
HEARING OFFICER CAROL WEBB, by LISA K. HAHN, CSR, RMR, a
notary public, within and for the County of Macon and
State of Illinois, at the City Hall Community Room, 200
West Douglas Avenue, Jacksonville, Illinois, on the 29th
day of January, 2014, A.D., at 10:00 a.m.

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BY: MS. CAROL WEBB, HEARING OFFICER

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BY: SCOTT B. SIEVERS, ESQ.

Appeared on behalf of the Petitioner.

ROBERT MANKER,

Pro Se Respondent.

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1 HEARING OFFICER WEBB: We'll go ahead and
2 begin. Good morning. My name is Carol Webb, and this is
3 the hearing for AC-13-7, IEPA vs. Robert Manker. It is
4 January 29th and we are beginning at 10 o'clock.

5 I will note for the record that there are no
6 members of the public here to make public comments.

7 At issue in this case is the Agency's
8 contention that Respondent violated Sections 21 (p) (1),
9 (p) (3) and (p) (7) of the Environmental Protection Act at
10 a site located at 2287 West Street in Literberry, Morgan
11 County.

12 The Pollution Control Board members will make
13 the final decision in this case. My purpose is to
14 conduct the hearing in a neutral and orderly manner so
15 that we have a clear record of the proceedings.

16 This hearing was noticed pursuant to the Act
17 and the Board's Rules and will be conducted pursuant to
18 Sections 101.600 through 101.632 of the Board's
19 Procedural Rules.

20 At this time, I'd like to ask the parties to
21 please make their appearances on the record.

22 MR. SIEVERS: Scott Sievers on behalf of the
23 Illinois EPA.

24 HEARING OFFICER WEBB: Okay. And Mr. Manker,

1 you are representing yourself; is that correct?

2 MR. MANKER: Yes.

3 HEARING OFFICER WEBB: Okay. Mr. Sievers,
4 would you like to make an opening statement?

5 MR. SIEVERS: No, I would not.

6 HEARING OFFICER WEBB: Okay. Mr. Manker, would
7 you like to make any opening statement?

8 MR. MANKER: I did not realize that I was
9 violating the EPA regulations with what I had out there
10 because all the materials were nonhazardous materials.
11 There were no chemicals involved. It's materials that
12 are found in everyday living and on houses around town,
13 and some of the things that they said I violated was
14 tarping of trusses and boards.

15 HEARING OFFICER WEBB: Okay. Well, maybe let's
16 go through your testimony after the Agency presents their
17 case, okay?

18 MR. MANKER: Okay.

19 HEARING OFFICER WEBB: All right. The Agency
20 may call its first witness. Would the court reporter
21 please swear in the witness?

22 MR. SIEVERS: Your Honor, the Illinois EPA
23 calls Mark Weber as its first witness.

24 (Witness sworn.)

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MARK WEBER

called as a witness on behalf of the
Petitioner, being first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION

BY MR. SIEVERS:

**Q. Mr. Weber, could you please state your name and
spell it for the court reporter?**

A. Mark Weber; M-A-R-K, W-E-B-E-R.

Q. And are you employed?

A. Yes.

Q. Where are you employed?

A. The Illinois Environmental Protection Agency.

Q. And how long have you been employed there?

A. A little -- 21 and a half years.

Q. Now, what is your job at the Illinois EPA?

A. I am an Inspector with the Springfield Regional
Office.

Q. How long have you been an Inspector?

A. Eight years. Well, eight years with the
Springfield Regional Office.

Q. And what was your position prior to that?

A. I worked for the Site Assessment Unit where I
did inspections of potential hazardous waste sites in the

1 State of Illinois.

2 **Q. Do you have a college degree?**

3 A. I do.

4 **Q. And where is that from?**

5 A. Southern Illinois University Carbondale.

6 **Q. And do you have any training specific to**
7 **inspections?**

8 A. Yes. I've taken a course in California
9 essentially called Advanced Inspector's Training about
10 eight years ago.

11 **Q. Have you had on-the-job training at all**
12 **involving a supervisor, coworkers, and the like?**

13 A. Yes, I have.

14 **Q. And that is specific as to solid waste**
15 **inspections?**

16 A. Correct.

17 **Q. I'm going to call your attention to June 6th,**
18 **2012. Do you recall conducting an inspection on that**
19 **date?**

20 A. I do.

21 **Q. Okay. And do you recall conducting an**
22 **inspection in the community of Literberry, Illinois?**

23 A. Yes, I do.

24 **Q. And now, was that inspection at 2287 West**

1 **Street in Literberry?**

2 A. Yes, it was.

3 **Q. And that property, did you understand that to**
4 **be owned by Mr. Robert Manker?**

5 A. That's correct. Yes.

6 **Q. Okay. Do you see Mr. Manker here present**
7 **today?**

8 A. Yes. He's sitting across the table from me.

9 **Q. Okay. Thank you. Now, on that June 6th, 2012,**
10 **date, was that the first time you had been to the site?**

11 A. That was actually the second time I had been to
12 the site.

13 **Q. What prompted you to go there the first time?**

14 A. I had been conducting an inspection of a
15 separate property in Literberry and I had went to the end
16 of the street to turn around, and when I turned around, I
17 noticed a large pile of waste in Mr. Manker's front yard.

18 **Q. And at that point did you conduct an**
19 **inspection?**

20 A. I did. I was typically --

21 **Q. Well, let me ask you this. So that inspection**
22 **was prior to the June 6, 2012, inspection?**

23 A. Yes, it was.

24 **Q. When you came back for the June 6, 2012,**

1 inspection, was that same pile of material there that you
2 had seen the first time around?

3 A. It was not.

4 Q. Okay. When you did this June 6, 2012,
5 inspection, did you observe any conditions on the site,
6 the site being Mr. Manker's property in Literberry, that
7 you understood to violate the Illinois Environmental
8 Protection Act?

9 A. Yes. That is correct.

10 Q. And what were some of the conditions that you
11 observed?

12 A. There was -- there was dimensional lumber,
13 landscape waste. What else? Plastic, cardboard, some
14 partially burned waste in a burn pit on the property.

15 Q. Now, during the course of your inspection, did
16 you record your observations at all?

17 A. Yes, I did.

18 Q. And how did you do that?

19 A. Photo documentation and field notes.

20 Q. Mr. Weber, I'm handing you what has been
21 previously marked as Exhibit A.

22 (Exhibit A was marked previously for
23 identification.)

24 MR. MANKER: Uh-huh.

1 BY MR. SIEVERS:

2 Q. If you could hand that back. Do you recognize
3 Exhibit A?

4 A. Yes, I do.

5 Q. And what do you recognize Exhibit A to be?

6 A. A photograph of Mr. Manker's -- a portion of
7 Mr. Manker's property that I took when I was doing the
8 reinspection.

9 Q. Okay. So this photograph was taken on the June
10 6, 2012, reinspection?

11 A. Correct.

12 Q. And does Exhibit A fairly and accurately depict
13 the conditions on Mr. Manker's property on June 6, 2012,
14 as you observed them that day?

15 A. Yes, it does.

16 Q. I'm handing you what has been previously marked
17 as Exhibit B. Do you recognize what Exhibit B is?

18 (Exhibit B was marked previously for
19 identification.)

20 A. Yes, I do.

21 Q. What is Exhibit B?

22 A. A photograph taken at Mr. Manker's property of
23 the burn -- inactive open burn area.

24 Q. Okay. And when was -- who created this

1 **photograph?**

2 A. I did.

3 **Q. And when was it taken?**

4 A. June 6, 2012.

5 **Q. Now, was this -- was this photograph taken at**
6 **the site of Mr. Manker's property?**

7 A. Yes, it was.

8 **Q. Okay.**

9 MR. MANKER: Uh-huh.

10 BY MR. SIEVERS:

11 **Q. Mr. Weber, I'm handing you now what has been**
12 **previously marked as Exhibit C. Do you recognize Exhibit**
13 **C?**

14 (Exhibit C was marked previously for
15 identification.)

16 A. Yes, I do.

17 **Q. What do you recognize Exhibit C to be?**

18 A. A photograph that I took during the June 6,
19 2012, inspection.

20 **Q. Okay. And does that photograph fairly and**
21 **accurately depict the conditions on the site as you**
22 **recall them and as you observed them on June 6, 2012?**

23 A. Yes, it does.

24 **Q. Is that the same with Exhibit B?**

1 A. Yes.

2 MR. MANKER: Uh-huh.

3 BY MR. SIEVERS:

4 **Q. Mr. Weber, I'm handing you what has been**
5 **previously marked as Exhibit D. Do you recognize Exhibit**
6 **D?**

7 **(Exhibit D was marked previously for**
8 **identification.)**

9 A. I do.

10 **Q. What do you recognize Exhibit D to be?**

11 A. A photograph of a portion of Mr. Manker's
12 property that I took when I was there on the June 6th,
13 2012, inspection.

14 **Q. Okay. And so does Exhibit D fairly and**
15 **accurately depict the conditions on the site as you**
16 **observed them on June 6, 2012?**

17 A. Yes, it does.

18 **Q. Okay. And was that the case with Exhibits A,**
19 **B, C, and D; that they fairly and accurately depict the**
20 **conditions on the site as you observed them on June 6,**
21 **2012?**

22 A. Yes, they do.

23 **Q. Now, let's talk about Exhibit D. What does**
24 **Exhibit D depict?**

1 A. It depicts wallboard or drywall and dimensional
2 lumber. That's primarily what it depicts.

3 **Q. Okay. And that's the way it appeared on June**
4 **6, 2012, on Mr. Manker's property?**

5 A. Correct.

6 **Q. Now, did you observe that this material**
7 **appeared to be preserved in any way for future use?**

8 A. No, I did not.

9 **Q. Did it appear that it was preserved from the**
10 **weather or from insects or any other elements that might**
11 **degrade it?**

12 A. No, it was not.

13 **Q. Let's look at -- I'll call your attention to**
14 **Exhibit C. Now, what is shown in Exhibit C?**

15 A. It is a pile of dimensional lumber.

16 **Q. Okay. Now, what do you mean by dimensional**
17 **lumber?**

18 A. Construction lumber. Basically, dimensional
19 lumber refers to lumber that's, for example, a
20 2-by-4-by-8-foot board used in construction.

21 **Q. Do you know what kind of dimensional lumber is**
22 **shown in Exhibit C?**

23 A. Not exactly.

24 **Q. Okay. Now, do you know whether you observed --**

1 **strike that.**

2 **Did you observe anything of the materials that**
3 **are depicted in Exhibit C that indicated those materials**
4 **were being preserved for future use?**

5 A. No. They were exposed to the elements.

6 **Q. And so was there any sign that they were being**
7 **protected in any way from rain or from weather or from**
8 **insects?**

9 A. No.

10 **Q. Okay. I call your attention to Exhibit A. In**
11 **Exhibit A, what is shown there?**

12 A. Again, you've got some pieces of dimensional
13 lumber there, including sheeting, strand board; you've
14 got some vinyl tarp, a finished hardwood flooring and
15 cardboard boxes -- empty cardboard boxes.

16 **Q. Now, these materials, did you observe them --**
17 **strike that.**

18 **Were these materials protected or preserved in**
19 **any way from the weather?**

20 A. They were not.

21 **Q. Were these materials that are depicted in**
22 **Exhibit A protected or preserved from insects or anything**
23 **else that might degrade their quality?**

24 A. They were not.

1 **Q. I'm calling your attention to Exhibit B. Now,**
2 **what is shown in Exhibit B?**

3 A. Specifically, empty cardboard boxes, some
4 finished hardwood flooring, and some plastic sheeting, I
5 guess I would call it.

6 **Q. Okay.**

7 A. And a burn pit.

8 **Q. Tell me about the flooring. What condition was**
9 **the flooring in?**

10 A. Well, it looked like it had been removed
11 because there was nails in it and dumped beside the burn
12 pit.

13 **Q. Now, how about the boxes? What condition were**
14 **they in?**

15 A. They were empty and located within the burn pit
16 area itself.

17 **Q. Can you tell what the boxes had been -- had**
18 **been used to contain?**

19 A. I would assume hardwood flooring. They
20 indicate on the box, Bruce Hardwood Floors.

21 **Q. Okay. Those materials, the flooring and the**
22 **boxes, is there anything that indicates that those**
23 **materials were being preserved or protected from the**
24 **elements when you were out there on June 6, 2012?**

1 A. No.

2 Q. Anything that indicated to you that those
3 materials were being preserved or protected from insects
4 or anything else that might degrade their quality when
5 you observed them on June 6, 2012?

6 A. No.

7 Q. Now, you mentioned this was -- did you say a
8 burn pit?

9 A. Correct.

10 Q. Okay. And what indicated to you that that was
11 a burn pit?

12 A. There was partially burned wood with -- located
13 within the pit itself, ashy residue. I mean, that's
14 about it, really.

15 Q. What indicated to you that this was a burn pit?

16 A. The fact that there was an ashy residue
17 remaining within the brick-lined area.

18 Q. Okay. So there is a brick-lined area depicted
19 in Exhibit B.

20 A. Correct.

21 Q. And do those bricks give you any indication at
22 all whether this is a burn pit or not?

23 A. Well, they have ash located upon them, and they
24 also exhibit some stress from heat.

1 Q. Now, the hardwood flooring that was depicted in
2 Exhibit B and in Exhibit A, and the oriented strand board
3 in Exhibit A, and the -- as well as the dimensional
4 lumber in Exhibit A, and the dimensional lumber in
5 Exhibit C and the dimensional lumber in Exhibit D, as
6 well as the drywall in Exhibit D, were these all
7 materials that you understood to be used in construction,
8 remodeling, repair, or the demolition of structures?

9 A. Yes.

10 Q. Was the -- the boxes -- well, strike that.
11 Were the Bruce boxes depicted in Exhibit B, were they
12 made of corrugated cardboard?

13 A. Yes. To me, they appeared to be made of
14 corrugated cardboard.

15 Q. And when you were talking about dimensional
16 lumber, are we talking about wood or a wood product?

17 A. Yes, we are.

18 Q. And is that the same with the oriented strand
19 board, or OSB?

20 A. Correct.

21 Q. I'll call your attention back to Exhibit B.
22 Now, you've testified that this was a burn pit. Was this
23 burn pit enclosed in any way?

24 A. No.

1 **Q. So this was out in the open on Mr. Manker's**
2 **property?**

3 A. That's correct.

4 MR. SIEVERS: At this time, the Illinois EPA
5 moves for Exhibits A, B, C & D to be admitted into
6 evidence.

7 HEARING OFFICER WEBB: Those exhibits are
8 admitted. They're the same as in the inspection report,
9 those photos, it appears?

10 (Exhibits A, B, C and D admitted into
11 evidence.)

12 MR. SIEVERS: Yes.

13 HEARING OFFICER WEBB: Yes.

14 BY MR. SIEVERS:

15 **Q. Mr. Weber, are you -- do you know whether**
16 **sanitary landfills in Illinois must be permitted?**

17 A. Yes, they must.

18 **Q. And does the Illinois EPA permit them?**

19 A. Yes, they do.

20 **Q. Do you know whether -- strike that.**

21 **Is Mr. Manker's property a sanitary landfill**
22 **and permitted by the Illinois EPA?**

23 A. No, it is not.

24 **Q. So it is not a permitted sanitary landfill.**

1 A. That's correct.

2 Q. You observed dimensional lumber on the site.
3 What about what you observed of that lumber indicated to
4 you that that material was not being preserved or
5 protected for future use?

6 A. Well, some of the lumber that was on the
7 property was actually moldy and rotting, and it was not
8 under a tarp or any other kind of cover.

9 Q. Was any of the dimensional lumber you observed
10 on June 6, 2012, at Mr. Manker's site protected from the
11 elements in any way?

12 A. Not that I recall.

13 Q. Okay. And would that be the case also with the
14 oriented strand board or the OSB sheets that are depicted
15 in Exhibit A?

16 A. Yes. That would hold true for the oriented
17 strand board as well.

18 Q. Now, the tarps that are shown in Exhibit A,
19 what did you understand those to be made out of?

20 A. Vinyl.

21 Q. Is that a form of plastic?

22 A. Yes, it is.

23 Q. And were those covering up or otherwise
24 protecting any materials?

1 A. No.

2 **Q. Okay. Were any materials upon those tarps?**

3 A. Some of the -- yes, there was some of the waste
4 located upon the tarps.

5 **Q. Okay. Now, the cardboard boxes that you**
6 **observed in Exhibit B, what indicated to you -- well,**
7 **strike that.**

8 **The cardboard boxes depicted in Exhibit B, did**
9 **they indicate to you that they had been discarded and**
10 **there was no intention to have future use of them?**

11 A. Yes.

12 **Q. And what indicated that to you?**

13 A. The fact that they were located within the burn
14 pit itself -- and they were empty.

15 **Q. And in Exhibit D, I think you testified**
16 **previously that that showed sheets of drywall?**

17 A. Correct.

18 **Q. What condition were those sheets of drywall in?**

19 A. They were mostly broken up and looked like they
20 appeared to have been torn out of a building recently.
21 They were not whole, pristine sheets of drywall.

22 **Q. Were they protected in any way from the**
23 **elements?**

24 A. They were not.

1 **Q. Did they appear to have been impacted at all by**
2 **the elements?**

3 A. No.

4 MR. SIEVERS: Okay. I don't think I have
5 anything further with this witness.

6 HEARING OFFICER WEBB: Okay.

7 Mr. Manker, would you like to cross examine?

8 MR. MANKER: Yes.

9 HEARING OFFICER WEBB: Okay. Go ahead.

10 MR. MANKER: Can I see those, please?

11 (Mr. Manker was handed the exhibits.)

12 CROSS EXAMINATION

13 BY MR. MANKER:

14 **Q. Since June 6th when you were on my property,**
15 **has all that been cleaned up?**

16 MR. SIEVERS: Objection, relevance.

17 MR. MANKER: I'm just trying to show that I
18 tried to go along with everything that Mark recommended
19 for me to do to abide by the EPA regulations because at
20 the time I did not necessarily understand all of the laws
21 and rules of the EPA. So I'm trying to show that I have
22 been --

23 HEARING OFFICER WEBB: Well, it's not really
24 relevant to this matter, but you can go ahead and answer

1 it.

2 THE WITNESS: Could you repeat the question?

3 HEARING OFFICER WEBB: If you know the answer.

4 BY MR. MANKER:

5 Q. Since June 6th, has this been cleaned up and
6 removed from the property?

7 A. The waste is no longer --

8 Q. This waste --

9 A. -- is no longer at the property.

10 Q. Right. Okay.

11 A. I don't know where it is.

12 Q. Did I give you copies of a bill of a waste
13 management removal company for dumpsters?

14 A. Yes, but they were from 2011.

15 Q. You should have gotten some from since then,
16 too.

17 A. Okay.

18 Q. Has this waste been removed from the property?

19 A. I don't know.

20 Q. But you were out to reinspect a couple months
21 ago. Did you notice it when you were there then?

22 MR. SIEVERS: I'm going to object.

23 HEARING OFFICER WEBB: Actually, the Board is
24 really -- I thought you were just going to ask one

1 question about the site overall. Really, the Board is
2 going to look at this particular inspection, so --

3 MR. MANKER: Okay.

4 BY MR. MANKER:

5 **Q. You keep explaining this as a burn pit. What**
6 **is your definition of a burn pit?**

7 MR. SIEVERS: Objection, vague. When you say
8 this, I don't know which this we're talking about.

9 MR. MANKER: Exhibit B.

10 MR. SIEVERS: Okay. Thank you.

11 MR. MANKER: I'm sorry. I'm not an attorney.
12 I'm just a little business man, so I'm trying to do it
13 the way it's supposed to be done the best I can.

14 BY MR. MANKER:

15 **Q. In Exhibit B, there is a picture of a burn pit.**
16 **What is your definition of a burn pit?**

17 MR. SIEVERS: Objection, relevance.

18 MR. MANKER: Because he has stated this is a
19 burn pit. This is actually where I have my family come
20 out and we do wiener roasts and stuff, and I use this
21 cardboard as starter for our fires. That's what I always
22 had done. I didn't think it was a big deal.

23 HEARING OFFICER WEBB: Well, you're testifying
24 right now, Mr. Manker, which you are allowed to do, but

1 not right now, not yet. This is your cross examination,
2 not your testimony time, okay?

3 MR. MANKER: Okay. Then I have no questions.

4 HEARING OFFICER WEBB: Okay. Do you have
5 anything further to present?

6 MR. SIEVERS: I'd just like to call Mr. Manker
7 -- yeah, Mr. Manker briefly.

8 HEARING OFFICER WEBB: Oh, okay. Sorry. Go
9 ahead.

10 (Witness sworn.)

11 HEARING OFFICER WEBB: Do you want him to give
12 his testimony first and cross examine him, or did you
13 want to direct examine him?

14 MR. SIEVERS: I was going to direct examine him
15 first, and then I guess we can rest, and then he can
16 testify separately, I suppose.

17 HEARING OFFICER WEBB: Okay.

18

19

ROBERT MANKER

20 the Respondent herein, called as a witness on behalf of
21 the Petitioner, being first duly sworn, was examined and
22 testified as follows:

23

DIRECT EXAMINATION

24

BY MR. SIEVERS:

1 **Q. Mr. Manker, could you state your name and spell**
2 **it for the court reporter?**

3 A. Robert Manker, R-O-B-E-R-T, M-A-N-K-E-R.

4 **Q. And where do you reside?**

5 A. 2287 West Street, Literberry, Illinois.

6 **Q. Okay. Do you have buildings on that property?**

7 A. Yes.

8 **Q. What buildings do you have on that property?**

9 A. I have a mobile home and I have a half of a
10 mobile home.

11 **Q. And do you operate a business?**

12 A. Yes.

13 **Q. What business do you operate?**

14 A. 6J's Painting and More.

15 **Q. Okay. And what does your business do?**

16 A. Remodeling, construction.

17 **Q. And painting as well?**

18 A. And painting.

19 **Q. Okay. Mr. Manker, I'm going to hand you what**
20 **has been previously marked as Exhibit F. Do you**
21 **recognize Exhibit F?**

22 **(Exhibit F was marked previously for**
23 **identification.)**

24 A. Yes.

1 Q. What do you recognize Exhibit F to be?

2 A. It was a request for review of an EPA
3 inspection.

4 Q. Now, is this a letter that you wrote?

5 A. Yes.

6 Q. So Exhibit F is a letter that you wrote to
7 Illinois EPA requesting review; is that right?

8 A. Yes.

9 Q. And was this a letter that you also submitted
10 to the Pollution Control Board?

11 A. I believe so.

12 Q. Okay. And the statements that are set forth in
13 Exhibit F, those are -- those are written by you; is that
14 correct?

15 A. Yes.

16 Q. You wrote Exhibit F in response to the
17 administrative citation you received in this case; is
18 that right?

19 A. I believe so, yes.

20 Q. And is Exhibit F a true and accurate copy of
21 the letter that you wrote to the Illinois EPA and to the
22 Pollution Control Board requesting review?

23 A. Yes.

24 MR. SIEVERS: At this time, we would move for

1 admission of Exhibit F into evidence.

2 HEARING OFFICER WEBB: Is that -- is this the
3 September 27th -- okay. Yeah, that's fine. I mean, it's
4 already part of the record, but sure, we'll mark it as
5 Exhibit F. Do you have one marked?

6 (Exhibit F was admitted into evidence.)

7 MR. SIEVERS: Yes. If we could go off the
8 record for just a moment.

9 HEARING OFFICER WEBB: Sure.

10 (Off-the-record discussion.)

11 MR. SIEVERS: At this time we don't have
12 anything further. The Illinois EPA does not have
13 anything further in its case in chief.

14 HEARING OFFICER WEBB: Okay. Mr. Manker, you
15 are still under oath and you may go ahead and present
16 your testimony.

17 TESTIMONY

18 BY MR. MANKER:

19 MR. MANKER: Mark came to my house and did an
20 inspection, and I was told of everything that was wrong
21 according to the Illinois Environmental Protection
22 Agency, and a lot of that I did not realize was a problem
23 because I see it done in many places besides mine.

24 For instance, I have trusses and 2 by 4s that

1 were not covered with a tarp, when I can go to Buckheit's
2 and see all their lumber sitting out in the parking lot.
3 I don't understand why mine has to be covered. So those
4 are the kind of things that made me not realize I was
5 doing things wrong.

6 The materials in Exhibit B I was told at one
7 point in time that because I have a construction company,
8 I'm not allowed to bring materials from the customer's
9 house to my yard. I did that because normally it was not
10 big enough for a big dumpster, so to save money I would
11 bring stuff to my yard. Some of the dimensional lumber I
12 would burn because I didn't realize burning a 2 by 4 was
13 against the law at the time. I do now.

14 The dimensional lumber in Exhibit D was my
15 materials that were removed from the T-mobile and they
16 were only there for a short time until I could get a
17 dumpster to dispose of everything.

18 Everything in Exhibit A, B, C and D have either
19 been removed, or in the case of the trusses, have been
20 covered with a tarp, which has blown off a couple times
21 and I've had to go back out and recover.

22 Mark did come do a reinspection one day when it
23 was uncovered because we had just had a big wind storm a
24 couple days before. It was on the back side. I didn't

1 notice it, so I have since covered it back up.

2 I have tried to cooperate with the EPA on
3 everything that they have brought to my attention, so
4 none of these materials are now on the property.
5 Everything has been cleaned up.

6 The burn pit was used basically for
7 recreational. It was not used as a commercial burn for,
8 say, shingles or things that shouldn't be burned. I was
9 burning 2 by 4s in it to have wiener roasts with my
10 children. I used the cardboard as starter.

11 We had just finished a job when he came out and
12 observed this. As you can tell from Exhibit A that the
13 height of the grass is not very tall, so the lumber has
14 not been there very long. We had just finished a job.
15 We dumped it off. It had not been straightened out and
16 moved to where we take stuff.

17 So my point is, I've tried to cooperate and do
18 everything that the EPA has asked me to do. I've
19 discontinued doing what I had done in the past, so I'm
20 asking for them to either forgive the fine or reduce the
21 fine and let's move on.

22 HEARING OFFICER WEBB: Mr. Sievers, do you have
23 any questions for Mr. Manker?

24 MR. SIEVERS: Just a moment. I might have a

1 few.

2 HEARING OFFICER WEBB: Sure.

3 CROSS EXAMINATION

4 BY MR. SIEVERS:

5 Q. Mr. Manker, let's take a look at -- I believe
6 it's Exhibit A. On June 6, 2012, there were at least two
7 sheets of oriented strand board that were present there;
8 correct?

9 A. Yeah, the OSB. Yes.

10 Q. And there was some dimensional lumber depicted
11 in Exhibit A that was there on your site that day as
12 well, correct?

13 A. Yes.

14 Q. And what was your intention on June 6, 2012, to
15 do with those materials?

16 A. This is -- we had just finished a roof. The
17 2 by 6s were used for roof jacks on the roof, which we
18 usually save those. This we save because we use it to
19 put up against the side of the house to keep the shingles
20 from marking up the house.

21 We had just finished a job. That's why there's
22 tarps. We had used the tarps on the roof. The guys
23 pulled up, backed the truck up, dumped everything off and
24 took off.

1 As I said, you can see by the grass that none
2 of this was there for a long period of time. It might
3 have been there a couple days.

4 **Q. Now, I understand that you subsequently**
5 **obtained a dumpster; is that correct?**

6 A. Yes.

7 **Q. And you took some of the material that's**
8 **depicted in Exhibits A, B, C, and D and put it in the**
9 **dumpster; is that correct?**

10 A. Yes.

11 **Q. Which material did you put into the dumpster?**

12 A. Everything except stuff that we would reuse as
13 2 by 6s. We put the drywall, the buckets -- let's see
14 what else we've got in here -- some of the tires because
15 some of these tires are actually for the -- my trailer
16 and the half trailer that I also have purchased; the
17 cardboard boxes, the hardwood flooring.

18 There was buckets of concrete -- well, Thinsert
19 that we had hardened and we didn't use, so we threw the
20 buckets away. A lot of shingles that were open packages
21 or individual shingles that we just kind of had laying
22 around, all of that was thrown away.

23 The only thing that was not thrown away was the
24 bunk of 2 by 4s and the stack of trusses. We did keep

1 those, but I ended up covering those with tarps.

2 **Q. Okay. And so the materials you talk about**
3 **taking out -- taking out with a dumpster, those are the**
4 **materials that were present on June 6, 2012, when**
5 **Mr. Weber inspected the site.**

6 A. I believe so. I've had two or three different
7 dumpsters in there to remove materials, so I believe so,
8 yes.

9 MR. SIEVERS: Okay. I have nothing further.

10 HEARING OFFICER WEBB: Okay.

11 Mr. Manker, do you have anything else you want
12 to say to clarify any of Mr. Sievers' questions, or are
13 you finished testifying?

14 MR. MANKER: I believe I'm finished.

15 HEARING OFFICER WEBB: Okay.

16 As we discussed, the transcript will be due by
17 February 10th and will be posted on the Board's website.
18 Any public comment is due by February 13th. Public
19 comment must be filed in accordance with Section 101.628
20 of the Board's procedural rules. The Agency's brief is
21 due by March 10th and the Respondent's brief, if any, is
22 due by April 10th.

23 Mr. Sievers, would you like to make any closing
24 argument today?

January 29, 2014

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1 MR. SIEVERS: Not at this time.

2 HEARING OFFICER WEBB: Mr. Manker, would you
3 like to make any closing argument?

4 MR. MANKER: I would just like for the Board to
5 know that I have tried to cooperate with Mark and Scott
6 on everything that they have brought to my attention.

7 I apologize for not knowing the rules and
8 regulations of all the EPA.

9 When I look around and I see things going on in
10 other places, you feel like it's okay, and I have since
11 learned that that's not the truth. So I have not only
12 cooperated in cleaning up my lot, but I have discontinued
13 the practices that I was doing at the time, so I just
14 hope the Board takes that into consideration.

15 HEARING OFFICER WEBB: Okay. Thank you.

16 I will again note that there are no members of
17 the public present to make any comments, so at this time
18 I will conclude the proceedings. We stand adjourned and
19 I thank you all for your participation.

20 MR. SIEVERS: And there was no Exhibit E. E
21 was not introduced into evidence or was not moved to be
22 introduced into evidence.

23 HEARING OFFICER WEBB: Okay. So there's no
24 Exhibit E.

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(Exhibit E was marked previously for
identification but not moved or admitted
into evidence.)

MR. SIEVERS: That's correct.

HEARING OFFICER WEBB: Okay. Thank you.

(Whereupon, the above-entitled proceedings
were concluded at 10:35 a.m.)

January 29, 2014

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF MACON)
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4

5 I, LISA K. HAHN, CSR, RMR, do hereby state
6 that I am a court reporting doing business in the State
7 of Illinois; that I reported by means of machine
8 shorthand the proceedings held in the foregoing cause,
9 and that the foregoing is a true and correct transcript
10 of my shorthand notes so taken as aforesaid.
11
12
13
14

15 _____
Lisa K. Hahn, CSR, RMR
Notary Public, Macon County, Illinois
16 CSR #084.2149
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23
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