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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

vs.

PCB No.: AC 02-007

TERRY AND LITISHA SPRINGER,

Respondent.

Proceedings held on June 26, 2002 at 10:00 a.m., at the
Jersey County Courthouse, Courtroom B, 201 West Pearl Street,
Jerseyville, Illinois, before Hearing Officer Steven Langhoff.

Reported by: Darlene M. Niemeyer, CSR, RPR
CSR License No.: 084-003677

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A P P E A R A N C E S

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
BY: James Richardson
Special Assistant Attorney General
Division of Legal Counsel
1021 North Grand Avenue East
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On behalf of the Illinois EPA.

LIVINGSTON LAW OFFICE
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Building 4 - Suite B
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On behalf of Respondent.

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I N D E X

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TERRY SPRINGER

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1 E X H I B I T S

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9 (The Hearing Exhibits were retained by Hearing Officer Steven
Langhoff.)

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1 P R O C E E D I N G S

2 (June 26, 2002; 10:00 a.m.)

3 HEARING OFFICER LANGHOFF: Good morning. My name is Steven
4 Langhoff. I am the Pollution Control Board Hearing Officer that
5 has been assigned to this matter and will be holding the hearing
6 today. This is AC 02-007, Illinois Environmental Protection
7 Agency versus Terry Springer and Litisha Springer. For the
8 record, it is Wednesday, June 26th of 2002, and we are beginning
9 at 10:00 a.m.

10 I want to note for the record that there are no members of
11 the public present today. Members of the public are encouraged
12 and allowed to provide public comment, if they so choose.

13 On September 4th, 2002, the Illinois Environmental
14 Protection Agency, or the Agency, issued an Administrative
15 Citation to the Respondents, Terry Springer and Litisha Springer.

16 On February 21st, 2002, the Board directed that this matter
17 proceed to hearing.

18 At issue in this case are allegations made in the
19 Administrative Citation filed by the Agency. The violation
20 alleged in the AC is that the Respondents caused or allowed open
21 dumping of waste in a manner that resulted in litter. The
22 alleged violation is of 21(p) (1) of the Environmental Protection
23 Act, 415 ILCS 5/21(p) (1). The alleged violation occurred at a
24 site located at a facility located at 1629 Beltrees Road,

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1 Godfrey, Jersey County.

2 I want to take a brief moment to let you know what is going
3 to happen today and after the proceeding here today. You should
4 know that it is the Pollution Control Board, and not me, that
5 will make the final decision in this case. My job as a Hearing
6 Officer simply requires that I conduct this hearing in a neutral
7 and orderly manner so that the Board has a clear and concise
8 record of the proceedings on which to base its decision. It is
9 also my responsibility to assess the credibility of any witnesses
10 giving testimony today, and I will do so on the record at the
11 conclusion of the proceedings.

12 We will begin with an opportunity for opening statements
13 from the parties, if they wish, and then we will proceed with the
14 Agency's case, followed by Ms. Livingston having an opportunity
15 to put on a case in her client's behalf. We will conclude with
16 any closing arguments that the parties may wish to make. And
17 then we will discuss off the record a briefing schedule, which
18 will then be set on the record at the conclusion of the
19 proceedings.

20 The Board's Procedural Rules and the Act provide that
21 members of the public shall be allowed to speak or submit written
22 statements at hearing. Any persons offering such testimony today
23 would be subject to cross-examination by both of the parties.

24 Any statements offered by members of the public must be relevant

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1 to the case at hand. If there are any members of the public
2 present at the conclusion of the proceedings, I will call for
3 statements at that time.

4 This hearing was noticed pursuant to the Act and the
5 Board's Rules and Regulations and will be conducted pursuant to
6 Sections 101.600 through 101.632 and Part 108 of the Board's
7 Procedural Rules.

8 At this time I will ask the parties to make their
9 appearances on the record today, beginning with the Agency.

10 MR. RICHARDSON: James G. Richardson.

11 HEARING OFFICER LANGHOFF: Thank you.

12 MS. LIVINGSTON: I am Penni Livingston, for Mr. Springer
13 and Mrs. Springer.

14 HEARING OFFICER LANGHOFF: Thank you. Do we have any
15 preliminary motions, any outstanding issues, or anything else
16 that we need to discuss before we begin?

17 MR. RICHARDSON: The Complainant has none.

18 MS. LIVINGSTON: We have none.

19 HEARING OFFICER LANGHOFF: Thank you. Would the Agency
20 like to give a brief opening statement on behalf of his client?

21 MR. RICHARDSON: We would waive opening statement.

22 HEARING OFFICER LANGHOFF: Thank you. A brief opening from
23 the Respondents?

24 MS. LIVINGSTON: Just that the statute says that no person

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1 shall cause or allow open dumping of any waste, and Mr. Springer
2 did not cause or allow open dumping of any waste.

3 HEARING OFFICER LANGHOFF: All right. Thank you, Ms.
4 Livingston.

5 Mr. Richardson, would you like to call your first witness.

6 MR. RICHARDSON: We would call Charlie King to the stand.

7 HEARING OFFICER LANGHOFF: All right. Thank you.

8 Would you please swear the witness.

9 (Whereupon the witness was sworn by the Notary Public.)

10 C H A R L E S W A L T E R K I N G, JR.,
11 having been first duly sworn by the Notary Public, saith as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. RICHARDSON:

15 Q. Would you please state your name.

16 A. Charles Walter King, Jr.

17 Q. And what is your occupation?

18 A. I am a field investigator and also an Environmental
19 Protection Specialist with the Illinois Environmental Protection
20 Agency.

21 Q. And how long have you been employed by the Illinois EPA?

22 A. Just over 16 years.

23 Q. And, specifically, how long have you been a field
24 inspector for the Illinois EPA?

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1 A. Just over ten and a half years.

2 Q. That's for the Bureau of Land?

3 A. That's correct.

4 Q. Exactly what are your duties as a land field inspector?

5 A. I conduct investigations and inspections of RCRA, which
6 is Resource Conservation Recovery Act, hazardous waste sites, of
7 open dumping, of complaint investigations of open dumping of
8 landfills. Particular inspections that may be required by the
9 Agency, such as compliance assistance surveys, small businesses,
10 that type of thing.

11 Q. Approximately how many open dump inspections would you
12 estimate that you have performed in that ten and a half year
13 period?

14 A. Several hundred. Close to 1,000.

15 Q. Okay. Now, concerning your education beyond high
16 school, what kind of degrees do you have?

17 A. I have an Associate's of Arts Degree from Parkland
18 College in Champaign, Illinois, where I majored in liberal arts.
19 I have a Bachelor's of Science Degree from Illinois State
20 University, where I majored in geography. And I have a Master's
21 of Science Degree in geography from Illinois State University,
22 with a concentration in resources.

23 Q. Approximately when did you get that Bachelor of Science
24 Degree, what year?

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1 A. December of 1980.

2 Q. And for the Master's?

3 A. May of 1982.

4 Q. And while you have been a land inspector, have you
5 received any type of periodic training or continuing education?

6 A. Numerous courses pertaining to primarily hazardous
7 wastes and landfills. I have had training with the RCRA,
8 Resource Conservation Recovery Act training in Golden, Colorado.

9 Q. Okay.

10 A. Midwest Environmental Enforcement Association in St.
11 Louis and Lansing, Michigan. And numerous one, two and three-day
12 courses, depending on the specific course and different
13 subissues, I guess you would call it, of open dumping and
14 landfill inspections and hazardous waste specifications and
15 sampling.

16 Q. I want to direct your attention to July the 5th of 2001,
17 at approximately 10:35 in the morning. Where were you at at that
18 particular date and time?

19 A. I was at Beltrees, in Elsay Township, at 1629 Beltrees
20 Road in Godfrey, I think is the correct town there.

21 Q. While you were at that place, was anyone with you?

22 A. Yes, there was two people with me, one was a college
23 student with the Governor's Environmental Program, and the other
24 one was a high school teacher who was with the Board of

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1 Education, the State Board of Education, conducting a practicum.

2 Q. And had you previously been to this particular site at
3 1629 Beltrees Road in Godfrey?

4 A. Eight previous times.

5 Q. Okay. Do you remember approximately when your first
6 visit as a land inspector occurred?

7 A. I believe that was February of 1986.

8 Q. 1986?

9 A. It may have been -- I am sorry. Not 1986, 1996.

10 Q. And when you arrived at the site or while you were at
11 the site, did you encounter anyone associated with that
12 particular site?

13 A. On which visit?

14 Q. On this July the 5th of 2001?

15 A. Mr. Terry Springer.

16 Q. Okay. Is that person you saw at the site that day
17 present in the courtroom today?

18 A. Yes, he is.

19 Q. Could you please just point to that person and describe
20 the clothing he is wearing?

21 A. He is right here (indicating) with a short-sleeved shirt

22 and socks and...

23 MR. RICHARDSON: If the record would reflect that he has
24 identified the Respondent, Terry Springer.

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1 HEARING OFFICER LANGHOFF: Let the record reflect that.

2 Q. (By Mr. Richardson) During your contact with this site
3 since 1996, have you determined what Mr. Springer's relationship
4 to the site is?

5 A. He is the owner of the property.

6 Q. And how do you know that fact?

7 A. I obtained a warranty deed, after the initial
8 inspection, at this courthouse.

9 Q. Why were you there on July the 5th of 2001?

10 A. To follow-up an inspection conducted in November of
11 1999, regarding continuing inspections at that site. As a result
12 of that site -- an Administrative Citation warning notice was
13 issued as a result of that inspection.

14 Q. Okay. When you arrived at the site, was there a
15 particular area that you first examined or observed?

16 A. The first area that I saw.

17 Q. And can you describe where that is on the property?

18 A. That was -- if you are facing the house, it would be on
19 the left side of the driveway. It was approximately 75 foot --
20 75 feet in front of the shed on the site.

21 Q. Am I correct that this area is located between this shed
22 or storage building and the public road; is that correct?

23 A. That's correct.

24 Q. Okay. And on July the 5th of 2001, what exactly did you

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1 see in this particular area that is down slope of the building?

2 A. An area of apparent open dumping, measuring
3 approximately 80 feet by 15 feet by about two foot high, on
4 average.

5 Q. What kind of items did you see in that particular area?

6 A. Conduit, pipe, electrical equipment, paint cans, lying
7 on the ground.

8 Q. Okay. Did you then look at another area at that site on
9 that date?

10 A. Yes, I did.

11 Q. And where would you generally describe this area to be?

12 A. It is just in front -- maybe 15 or 20 feet just in front
13 of the shed, and on the side of the shed. In front of the shed
14 it measures approximately 60 foot by 40 foot by about 2 foot high
15 of open dumping, apparent open dumping. Again, on the southwest
16 side it would be approximately 40 feet by 15 foot by about -- or
17 10 foot by -- 40 feet by 10 foot by about 2 foot height.

18 Q. So is it fair to say that this area sort of snakes along
19 the building on two sides?

20 A. That's correct.

21 Q. And what kind of items did you see in this pile that you
22 have just described?

23 A. Items of waste?

24 Q. Yes.

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1 A. Both?

2 Q. What -- just what did you see in that area that --

3 A. There were items on skids, which the Agency has no
4 problem with. They are metals and so forth that Mr. Springer
5 uses in his business.

6 Q. Okay. What about the items on the ground?

7 A. The items on the ground were waste carpeting, used
8 carpeting, cardboard, other metals, conduits, hosing.

9 MS. LIVINGSTON: I am sorry? What was the last thing?

10 THE WITNESS: Hosing, hoses.

11 MS. LIVINGSTON: Thank you.

12 Q. (By Mr. Richardson) Then after observing this, what
13 other parts of the site did you examine or observe?

14 A. Primarily the remainder of the site I noticed waste
15 areas, indiscriminate pieces of waste laying about behind the
16 shed, also between storage semi-trailers that Mr. Springer has on
17 site, underneath those trailers, in front and back of those
18 trailers, and also in a wood area further to the west, southwest.

19 Most of those areas -- most of the items over in that area

20 are items that are in boxes or on skids, which are allowable for
21 metals and so forth, but there were also some metals laying
22 around on the ground. All encompassing, if that were to be put
23 with the waste in those areas, if it would be put in a single
24 pile it would measure approximately 25 feet by 25 feet by about 2

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1 foot high on that date.

2 Q. Okay. And you say that these are mostly what you would
3 consider to be metal waste in these various areas scattered
4 throughout the site?

5 A. Yes, sir.

6 Q. Now, from your training and experience with the Illinois
7 EPA, do you have like a definition or a description of litter
8 that you rely on as you go about performing your duties?

9 A. We rely on the definition provided in the Litter Control
10 Act, which has been accepted by the Illinois Pollution Control
11 Board and it is also a statute, the law.

12 Q. And, briefly, in a nutshell, I mean, what is that
13 definition of litter, or what is your paraphrasing of that
14 definition?

15 A. Litter is anything that is -- any item that is
16 discarded, unconsumed, nonused --

17 Q. Okay.

18 A. -- waste. Or --

19 Q. Okay. Now, based on --

20 A. Or any item, for that matter, that is just laying about
21 and has just been discarded.

22 Q. Okay. Now, based upon your training and your experience
23 and your observations of the items that you just described at the
24 Springer property on July the 5th of 2001, did you form an

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1 opinion as to whether these items that you just described to us
2 were litter?

3 A. Yes, I did.

4 Q. And what is that opinion?

5 A. That litter did exist on that site and on that date.

6 Q. Okay. Now, after your July the 5th of 2001 visit to the
7 site, did you create any documentation memorializing that
8 inspection?

9 A. Yes, I did. I wrote a narrative inspection report or --

10 Q. Okay.

11 A. -- a memorandum, also including a sketch, and
12 photographs of the site --

13 Q. That also had --

14 A. -- and the report.

15 Q. -- a checklist contained --

16 A. That's correct.

17 Q. -- within it, too?

18 A. An open dump inspection checklist, yes.

19 Q. Now, are these inspection reports made by the Illinois
20 EPA inspectors with firsthand knowledge of the information those
21 reports contain?

22 A. Yes.

23 Q. Are the inspection reports prepared shortly after the
24 inspection is performed?

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1 A. Yes, they are.

2 Q. Is it the regular practice of the Illinois EPA
3 inspectors to prepare such reports?

4 A. Yes, it is.

5 Q. Are the reports kept in the normal course of the
6 Illinois EPA's business and discharge of its duties?

7 A. Yes.

8 (Whereupon a document was duly marked for purposes of
9 identification as Complainant's Exhibit 1 as of this date.)

10 Q. (By Mr. Richardson) I want to show you what has been
11 marked as Complainant's Exhibit Number 1, a copy of which I have
12 already tendered to Respondent's attorney.

13 A. Okay.

14 Q. I would ask you to examine that item. Do you recognize
15 what it is?

16 A. Yes, this is my inspection report, dated July 31st of
17 2001, following the -- concerning the July 5th of 2001
18 inspection.

19 Q. Okay. Am I correct that there are seven digital photos
20 contained at the end of that report?

21 A. Yes, there are.

22 Q. Okay. Now, do these photos fairly and accurately depict
23 the conditions that you observed at the Springer property on July
24 the 5th of 2001?

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1 A. Yes, they do.

2 Q. Okay. I want to direct your attention first to photos 1
3 and 2, or the first two photos. I think they are 001 and 002 at
4 the end of a longer number appearing on those pages. What exact
5 area have you previously discussed are these photos of?

6 A. Photo Number 1 would be the first area that I inspected
7 at the site upon arrival at the site. That area was
8 approximately 75 feet in front of the storage shed portion.

9 Q. The waste or the litter that you have described is what
10 appears on the ground in that particular -- in those photographs
11 there?

12 A. Yes, it is.

13 Q. Okay. I want to direct your attention to Photos 3 and 4
14 of that set.

15 A. That would not include the boat or the truck or the snow
16 blade.

17 Q. Okay. But the other items, in your opinion, were waste

18 and litter on that date?

19 A. Yes.

20 Q. Okay. Photos 3 and 4, what particular area do those
21 photos look at?

22 A. That's the area immediately in front of the shed that
23 measured approximately 60 feet by 10 feet by about 2 foot high.
24 There is carpeting visible in Photo 003 as well as metals and

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1 other waste.

2 Q. Okay. Finally, I think there is photos -- I think there
3 is a mistake in the inspection report. I think two are numbered
4 005. So we will just refer to them as the last three photos.

5 A. That's correct.

6 Q. What particular areas were you trying to focus on with
7 those three photos?

8 A. The first 005, which should be 005, is at the area of
9 the storage semis there. A lot of the waste that was in this
10 area is occluded, you can't see it because of the high
11 vegetation. But there were metals on the ground between and
12 underneath the semi-trailers.

13 There were also some barrels that he had on skids that had
14 metals in them. Those are not included as waste, because we had
15 told him that on previous occasions that he was allowed to have
16 those.

17 Q. Now, why are you excluding those barrels with stuff

18 inside them on skids versus the stuff on the ground? What's the
19 distinction there?

20 A. During the initial inspections at the site Mr. Springer
21 stated that he brought in metals or people brought him metals,
22 and sometimes he bought them and sometimes he sold them when the
23 market was right. And he asked if he could keep those metals for
24 things that he may use or that he might sell.

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1 We said that would be fine providing that he kept the
2 metals organized and he kept them on skids, unless they were very
3 large pieces, which were not included in any of these pictures,
4 which I believe he used to build the shed, pipe beams and so
5 forth.

6 Q. So the waste that you are focusing on are those that are
7 on the ground --

8 A. That's correct.

9 Q. -- or those that have no recyclable value, like
10 carpeting and things like that?

11 A. Right, things not on skids.

12 Q. Okay. Why don't we go to -- did you describe the second
13 005?

14 A. The second 005 should actually be 006 at the bottom of
15 that page. That is the area that is immediately behind the shed
16 on site. There is a truck there that Mr. Springer said was

17 operable, so that's not included. But there were metals on the
18 ground immediately behind that building that would be included.

19 Q. And you are saying that you are not calling that truck
20 waste?

21 A. That's correct.

22 Q. Okay. Then photo 007?

23 A. This is an area that is further west, southwest of the
24 semi-trailers, I guess you would say. And most of the items in

20

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1 this area are metals that are on skids. That is not included in
2 my description of the waste.

3 However, there were some metals scattered about on the
4 ground, and that included with the metals and the semis behind
5 them and included with the metals behind the building itself, the
6 storage building, if they were to be put in one pile they would
7 measure approximately 25 feet by 25 feet by two feet high, and
8 that's probably a conservative estimate.

9 Q. And I assume as in the previous two photos, in 007 the
10 weeds are obscuring a lot of the metals on the ground that are
11 the focus of your inspection of the waste items, so to speak?

12 A. The tall vegetation, yes, sir.

13 MR. RICHARDSON: Okay. Mr. Hearing Officer, we move to
14 admit Complainant's Exhibit Number 1 at this time.

15 HEARING OFFICER LANGHOFF: Any objection?

16 MS. LIVINGSTON: I would not object to the admission of the

17 photographs, but I would object to the admission -- or nor would
18 I object to the admission of the site sketch.

19 But I would object to the admission of the narrative, since
20 the witness is here to be cross-examined and anything that he put
21 in his report would not be subject to cross. But he is here
22 testifying, so I don't see how his report is admissible.

23 HEARING OFFICER LANGHOFF: Okay. Thank you. I am going to
24 overrule your objection, and I will admit Complainant's Exhibit

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1 Number 1.

2 (Whereupon said document was admitted into evidence as
3 Complainant's Exhibit 1 as of this date.)

4 MR. RICHARDSON: Thank you.

5 Q. (By Mr. Richardson) Now, Mr. King, what, if any,
6 Illinois EPA permits do Terry or Litisha Springer have to conduct
7 waste disposal or storage operations at this particular site?

8 A. There are none that I am aware of.

9 Q. Are there any gates or fencing or other measures to
10 control access to the site from the public roadway where people
11 enter the site on?

12 A. No, sir, at least not on the date of that inspection
13 there wasn't.

14 MR. RICHARDSON: Okay. I have no further questions of this
15 witness.

16 HEARING OFFICER LANGHOFF: All right. Thank you.

17 Ms. Livingston.

18 CROSS EXAMINATION

19 BY MS. LIVINGSTON:

20 Q. Mr. King, are there no gates at this property because it
21 is, in fact, Mr. & Mrs. Springer's residence?

22 A. I don't know the reason why there weren't any gates
23 there, but it is a residence.

24 Q. And it would not be a requirement to have gates at your

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1 residence?

2 A. That's correct.

3 Q. With respect to your description of photograph 007, you
4 stated that there was metal material scattered throughout, and
5 that that would equal 25 by 25 by a 2 foot area; is that true?

6 A. Partially in that photo and partially in the two
7 previous photos, the two number 5 photos. If the metals were
8 scattered about on the ground, and those three areas were put in
9 a single pile it would be that size.

10 Q. And if those metals were recyclable, they would not be a
11 waste; is that true?

12 A. That's correct.

13 Q. And do you --

14 A. Providing that he keeps them on the skids or keeps them
15 organized, as we agreed upon.

16 Q. Okay. There is a statutory or regulatory requirement or
17 state law that you put recyclable materials on skids?

18 A. No. We had determined through discussion that --

19 Q. That was my only question, is whether or not that was a
20 regulatory or statutory requirement. And you don't enforce
21 zoning codes; is that correct?

22 A. That is correct.

23 Q. Do you agree that the material that we are discussing
24 did consist of metals?

23

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1 A. Yes.

2 Q. Okay. And --

3 A. And in those photos.

4 Q. Pardon?

5 A. In those photos, that is correct.

6 Q. But in the photographs number 1 and 2, that material
7 would consist of other materials that would not be metals that
8 would be recyclable; is that true?

9 A. Not necessarily, no. Some of those were waste, further
10 waste, carpeting.

11 Q. Right. That was my question.

12 A. Right.

13 Q. Is that not everything in those other piles is
14 recyclable?

15 A. That's true.
16 Q. Some of that is litter?
17 A. Yes, ma'am.
18 Q. Mr. Springer told you that someone put that material on
19 him; is that true?
20 A. In the area that was immediately in front of the
21 building.
22 Q. Right.
23 A. Not the pile 75 foot below.
24 Q. The area that clearly constitutes what we are calling

24

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1 litter, Mr. Springer told you that someone put that on his land?
2 A. In Photos 3 and 4, not Photos 1 and 2. Mr. Springer
3 told me that the items in 3 and 4 were dumped upon him.
4 Q. Okay. The photographs 1 and 2 are really the same pile
5 from a different angle; is that true?
6 A. Photos 1 and 2, correct.
7 Q. So this isn't two separate piles? It is the same pile?
8 A. That's correct.
9 Q. And the same with respect to photographs 3 and 4?
10 A. That's correct.
11 Q. They are just one pile from two different angles?
12 A. Yes.
13 Q. Okay. Do you have any reason to believe that someone
14 didn't put this material on Mr. Springer's land?

15 A. I have no reason to -- no.

16 Q. Okay. When you came to do your reinspection, the
17 materials that you had previously thought were a problem, were
18 those materials gone?

19 A. Some of them were. Some of them were not.

20 Q. What materials that you identified as a problem would
21 you say were not gone at the July 5th inspection?

22 A. Some of the metals in the first area of the site, which
23 was 75 foot below, and most of the material -- pardon me -- most
24 of what we consider to be waste around the semis and behind the

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1 semis and in front of the semis.

2 Q. And that material --

3 A. Were there at previous inspections.

4 Q. I am sorry?

5 A. Were there at previous inspections.

6 Q. And the material by the semi was metal, and was not on
7 skids?

8 A. Some of it was. Some of it was on skids and some were
9 in barrels. We didn't include that. I didn't include that as
10 being waste. The metals laying on the ground, I did include to
11 be waste.

12 Q. How much would that constitute?

13 A. Roughly --

14 Q. A much smaller area?

15 A. A much -- well, somewhat smaller. Maybe about half as
16 much, if we don't include the area around (inaudible).

17 THE COURT REPORTER: I am sorry. You said, include the
18 area around --

19 THE WITNESS: If we don't include the area around the front
20 of the building and the west side of the building.

21 THE COURT REPORTER: Thank you.

22 THE WITNESS: About half of that material at the first
23 place that we saw. If we took that out, that takes out about 100
24 cubic yards of the waste. So the remaining waste, that is

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1 another 100 cubic yards, would be in the area that we saw before.

2 Q. (By Ms. Livingston) When you say the first area, you are
3 referring to the area that Mr. Springer told you that someone
4 else put on him?

5 A. No. The first area is the area that is approximately 75
6 yards.

7 Q. It is in photographs 1 and 2?

8 A. That is correct, 75 feet in front of the building.

9 Q. And the material in photographs 1 and 2 was material
10 that was not present at your November of 1999 inspection; is that
11 correct?

12 A. Approximately half of it was there.

13 Q. The half that was there, was it metal?

14 A. Some of it was.

15 Q. Well --

16 A. Or probably most of it was. It was laying on the ground
17 and it was not organized.

18 Q. Most of it was metal but not organized?

19 A. Right.

20 Q. Okay. Have you inspected this site after July 5th but
21 prior to September 5th of last year to see if it had been cleaned
22 up?

23 A. No.

24 Q. Did you give Mr. Springer a time period to remove the

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1 material when you were there on July 5th?

2 A. No, I didn't. At that time I was solely there to
3 deliver the --

4 Q. I am talking about July 5th.

5 A. I am sorry.

6 Q. On July 5th did you give Mr. Springer a time period to
7 clean up the new material that you observed?

8 A. No.

9 Q. Did Mr. Springer tell you that the materials that you
10 saw that was new were dumped on his property while he was on
11 vacation?

12 A. In Photos 3 and 4.

13 Q. Okay. Do you know if the area was previously flooded in
14 2001 prior to your visit in July?

15 A. That particular year, that's hard to recall. That site
16 has been flooded numerous times. So any waste that would be on
17 the ground would be a flood hazard as well, a water hazard.

18 Q. Was the area flooded on July the 5th when you were
19 there?

20 A. No, it was not.

21 Q. But you did indicate in your report that the soil
22 conditions were damp; is that correct?

23 A. I believe so.

24 Q. Is the salvage yard in an area that would flood, the

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1 salvage yard?

2 A. Across the street?

3 Q. Yes.

4 A. Yes, it is. It is in a floodplain.

5 Q. Do you know if the property is cleaned up now?

6 A. No, I do not.

7 Q. Well, is there an open site, according to your records?

8 A. An open site?

9 Q. Yes.

10 A. Could you define "open site"?

11 Q. Do you consider this to be an open site?

12 A. Could you define "open"?

13 Q. Other than the Administrative Citation today?

14 A. Well, it has not been resolved yet. A final inspection
15 would have to resolve any outstanding issue.

16 Q. But you have not done an inspection since July the 5th
17 of 2001?

18 A. No, ma'am.

19 Q. So this is not a priority case?

20 MR. RICHARDSON: I am going to object to that.

21 HEARING OFFICER LANGHOFF: On what grounds?

22 MR. RICHARDSON: I don't know what relevance it has to the
23 proceeding.

24 HEARING OFFICER LANGHOFF: Okay. Overruled.

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1 THE WITNESS: A priority case? Depending on priority, we
2 give priorities to hazardous waste sites first, anything dealing
3 with hazardous wastes. In that sense, it is not a priority.

4 Q. (By Ms. Livingston) Okay. So --

5 A. There is other sites that have been cleaned up or
6 alleged to be cleaned up that we have not inspected yet that were
7 open dump sites and might have a somewhat lower priority than
8 this site.

9 Q. Do you agree that the bulk of the material that you are
10 complaining of today that was at the site on July the 5th of 2001
11 was newly dumped material that you had not seen in your November

12 inspection?

13 A. Could you say that again, please?

14 Q. That's a good trick, Charlie. Would you agree that the
15 material that you saw on the site on July 5th, the majority of
16 which you are complaining about today, was not there at your
17 November inspection?

18 A. No, not the majority, no. I would say at least half of
19 it was there. And it would be waste, as far as I am concerned.

20 Q. Because of the manner in which it was kept?

21 A. Correct. If it had been organized and been on skids, as
22 we agreed upon, since he appeared to be running a scrap business,
23 although he said that he has not been running a scrap business,
24 we considered it was, so we decided to let him do that.

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1 Otherwise, we would consider all of it waste.

2 Q. Okay.

3 A. Or a big chunk of it anyway, probably most of it.

4 Q. Because of your view that it was a scrap business?

5 A. Uh-huh, yes, ma'am.

6 Q. But you would agree that if a material is recyclable and
7 is, in fact, recyclable, that it would not be a waste?

8 A. Depending on how it is laying about. We agreed that it
9 would be kept on skids or kept well organized. If we saw
10 turnover in that waste, that is, stuff was coming in and coming
11 out --

12 Q. I guess I am asking you, in your experience as a person
13 who enforces the Litter Control Act, if you wouldn't agree with
14 me that waste is material that is discarded, which means thrown
15 away and never to be used again; would you agree that that is
16 what waste is?

17 A. Yes.

18 Q. And so if a material is recyclable and is, in fact,
19 recycled, then would you agree that that material would not be a
20 waste?

21 A. Providing it was on skids or if it were organized. If
22 it is laying on the ground it is a waste.

23 Q. When you were at the site on September 5th to deliver
24 the Administrative Citation to Mr. Springer, did you do an

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1 inspection at that time?

2 A. No, I did not.

3 Q. Did you make any observations at that time?

4 A. No, I did not.

5 Q. So you didn't look around the site and see if it was
6 cleaned up?

7 A. I met him across the street at J&P Scrap Metals and I
8 handed him the citation there, right in front of that business.

9 MS. LIVINGSTON: Okay. I have no other questions.

10 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms.

11 Livingston.

12 Mr. Richardson.

13 MR. RICHARDSON: I just have a few.

14 HEARING OFFICER LANGHOFF: Okay.

15 REDIRECT EXAMINATION

16 BY MR. RICHARDSON:

17 Q. This agreement concerning organizing or putting
18 materials on skids or pallets or something, do you recall
19 approximately when that was discussed by you and Mr. Springer?

20 A. I believe at the first inspection.

21 Q. Okay. Exactly, sort of in a nutshell for us, could you
22 tell us what the concept was that you and Mr. Springer were
23 discussing as to how to deal with these materials?

24 A. The concept -- well, it appeared that he was operating a

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1 scrap business. I asked him if he was doing that and he said no.
2 I said, what are you doing with all this metal. He said, well,
3 some people brought it to him and some of it he purchased, and
4 sometimes he sold it when the price was right. That certainly
5 sounded like a definition of a scrap business to me.

6 But regardless of whether he considered it one or not, we
7 felt that he was probably in business with this or at least
8 helped supplementing his family income with this. So we made a
9 decision that we would allow him to do this so long as the metals
10 were kept organized and on skids or pallets.

11 Q. And I think you said that your first visit to the site
12 was February of 1996?

13 A. That's correct.

14 Q. And do you recall approximately how many times you have
15 been to the site since that time for inspections?

16 A. Eight additional times, so nine times total.

17 Q. Okay. On any occasions has this agreement or this
18 process worked out where you go there and everything is neat,
19 collected, organized, and there is no waste or just stuff laying
20 on the ground, not knowing what its future is?

21 A. No.

22 MS. LIVINGSTON: I --

23 THE WITNESS: On none of the visits.

24 MS. LIVINGSTON: I object to that whole line of questioning

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1 since we here about an Administrative Citation on July 5th, and
2 the evidence of an agreement -- we have not seen anything in
3 writing, so I don't know where that can go.

4 HEARING OFFICER LANGHOFF: He has already answered the
5 question, though.

6 MS. LIVINGSTON: I know, but it should be stricken.

7 MR. RICHARDSON: I would say that she opened the door by
8 talking about these areas so...

9 HEARING OFFICER LANGHOFF: I am afraid your objection is

10 late. If you want to make it again if there is more of this line
11 of questioning, feel free to make it right away.

12 MS. LIVINGSTON: Thank you. He answered before I could
13 open my mouth.

14 Q. (By Mr. Richardson) Now, I think Ms. Livingston asked
15 you if you gave Mr. Springer a chance to clean up this allegedly
16 dumped -- this waste that was allegedly dumped on him that you
17 saw on July 5th. Prior to that in these other visits to the site
18 have you given him opportunities to clean up the site?

19 A. Yes, sir.

20 Q. And --

21 HEARING OFFICER LANGHOFF: Do you have the same objection?

22 MS. LIVINGSTON: Yes, I --

23 HEARING OFFICER LANGHOFF: Okay. I am going to sustain
24 your objection and --

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1 MR. RICHARDSON: I would just say that -- I mean, just in
2 response, that I think she has opened the door.

3 HEARING OFFICER LANGHOFF: I have heard that, Mr.
4 Richardson.

5 MR. RICHARDSON: Okay.

6 HEARING OFFICER LANGHOFF: I am going to sustain her
7 objection.

8 MR. RICHARDSON: Okay. Thank you.

9 Q. (By Mr. Richardson) To be clear, Mr. Springer told you

10 on July the 5th of 2001 that the waste allegedly open dumped on
11 him was the waste shown in what we are now referring to as Photos
12 3 and 4; is that correct?

13 A. That's correct.

14 Q. And no such statement or representation was made
15 concerning the waste in the other five photographs that you took
16 that day?

17 A. That's correct.

18 MR. RICHARDSON: I have no further questions.

19 HEARING OFFICER LANGHOFF: All right. Thank you.

20 Ms. Livingston, anything specifically on redirect?

21 MS. LIVINGSTON: Yes.

22 HEARING OFFICER LANGHOFF: Or recross. Excuse me.

23 RE CROSS EXAMINATION

24 BY MS. LIVINGSTON:

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1 Q. Mr. King, is the scrap business required to get an
2 Agency permit?

3 A. No.

4 Q. So if Mr. Springer was operating a scrap business, the
5 Agency would not regulate that business with respect to any
6 permit conditions or requirements?

7 A. That's correct. We understand it is a livelihood.

8 Q. Pardon me?

9 A. For those people that are engaged in scrap businesses we
10 understand it is a livelihood. So if we see metals coming and
11 going and they are kept organized, we have a tendency to allow
12 that, so long as it is not waste.

13 Q. So the real problem that you have with respect to the
14 metal at the site, other than the material that was dumped on Mr.
15 Springer, is that it was not organized and on skids; is that
16 correct?

17 A. That's correct. It was on the ground, laying on the
18 ground. Most of the stuff, but some of that waste like the
19 carpeting --

20 Q. But that carpeting was part of the waste that had
21 been --

22 A. That he stated was recently dumped on him --

23 Q. Thank you.

24 A. -- while he and his wife were on vacation.

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1 MS. LIVINGSTON: I have nothing else.

2 HEARING OFFICER LANGHOFF: Thank you. Mr. Richardson?

3 MR. RICHARDSON: I have no further questions.

4 HEARING OFFICER LANGHOFF: Thank you. Mr. King, I just
5 have a few questions. I don't really -- I am not looking for
6 additional evidence or testimony from you. I just want a couple
7 of clarifications.

8 THE WITNESS: Yes, sir.

9 HEARING OFFICER LANGHOFF: If you could use the inspection
10 report if you need to see it. When you testified about like at
11 the first site or the first -- I don't know if you call it the
12 first --

13 THE WITNESS: The first area.

14 HEARING OFFICER LANGHOFF: The first area, specifically,
15 would that have a name and a number with the pictures associated
16 with it?

17 THE WITNESS: No.

18 HEARING OFFICER LANGHOFF: Okay.

19 THE WITNESS: Those are three distinct sections, pretty
20 much.

21 HEARING OFFICER LANGHOFF: Okay. Where would the first
22 area be?

23 THE WITNESS: About 75 feet in front of the shed. It
24 measures approximately 80 feet by 15 feet by 2 feet high.

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1 HEARING OFFICER LANGHOFF: Is that labeled as storage
2 building?

3 THE WITNESS: Yes.

4 HEARING OFFICER LANGHOFF: Which photographs would area
5 one --

6 THE WITNESS: 1 and 2.

7 HEARING OFFICER LANGHOFF: And what about area two?

8 THE WITNESS: Area two would be Photographs 3 and 4.
9 HEARING OFFICER LANGHOFF: Then area three would be the 5,
10 5, and the 7?
11 THE WITNESS: Yes, sir.
12 HEARING OFFICER LANGHOFF: Okay. Thank you very much.
13 THE WITNESS: Yes, sir.
14 HEARING OFFICER LANGHOFF: You are all done.
15 THE WITNESS: Okay.
16 (The witness left the stand.)
17 HEARING OFFICER LANGHOFF: Mr. Richardson, anything
18 further?
19 MR. RICHARDSON: No.
20 HEARING OFFICER LANGHOFF: Okay. Thank you.
21 Ms. Livingston?
22 MS. LIVINGSTON: We would call Mr. Springer, Mr. Terry
23 Springer.
24 HEARING OFFICER LANGHOFF: Okay. Thank you.

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1 Would you swear the witness, please. Thank you.
2 (Whereupon the witness was sworn by the Notary Public.)
3 T E R R Y L E O N A R D S P R I N G E R,
4 having been first duly sworn by the Notary Public, saith as
5 follows:
6 DIRECT EXAMINATION
7 BY MS. LIVINGSTON:

8 Q. Could you state your name for the record.

9 A. My name is Terry Leonard Springer.

10 Q. And your wife can't be with us today?

11 A. She is in the hospital. She was put in the hospital

12 yesterday for her diabetes. It has been an ongoing thing, and

13 they are discussing taking one of her feet off.

14 Q. What is your occupation?

15 A. I do a number of things. I am working on my medic

16 license. I am an EMT. I have worked for Jerseyville for four

17 years. And I also take care of a building in Alton. I manage

18 the building.

19 Q. Do you have any businesses?

20 A. At this time I am trying to buy J&P Scrap Metal across

21 the street.

22 Q. And are you attending school?

23 A. Yes. I attend school two nights a week and I work

24 generally two nights a week.

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1 Q. Do you do any missionary work?

2 A. Again?

3 Q. Do you do any missionary work? I recalled you telling

4 me that once.

5 A. I use equipment and things like that on the jobs.

6 Q. I thought you told me you did missionary work.

7 A. Oh, missionary. I thought you said machinery. I am
8 sorry. Yes, we do missionary work. We go on missionary trips.
9 We have been on about five in the Honduras, Nicaragua, and Peru.
10 At different times we have been out of the country on missionary
11 work.

12 My wife went and vaccinated some children with -- I think
13 there were 25 nurses and 5 doctors, which she went out of the
14 country to do that. And I have been on a number of trips to
15 Nicaragua and the Honduras to help build churches.

16 Q. Where do you live?

17 A. At 1629 Beltrees Road, Godfrey, Illinois. That is in
18 Elsah Township and that is Jersey County.

19 Q. And where is your property in relation to J&P Salvage
20 Yard?

21 A. It is adjoined in the center of the road with the
22 property line. The road actually divides us between J&P Scrap
23 Metal and my property.

24 Q. I am going to show you what has previously been admitted

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1 as Complainant's Exhibit Number 1. And I am on the pages that
2 indicate photographs. I am showing you what is labeled
3 Photograph Number 1 and Photograph Number 2.

4 Could you tell us how this material got there? This is the
5 same pile, correct?

6 A. Yes. That's a different angle of the same pile. He was

7 standing behind the boat when he took this one, next to a
8 trailer. And then he took this one from the road.

9 These pictures were dumped on me while we were on vacation.
10 That was totally cleaned up. Before we went on vacation there
11 was nothing there. That was a new pile of metals that were
12 dumped.

13 MR. RICHARDSON: Excuse me. If I could just clarify. What
14 picture is he referring to?

15 MS. LIVINGSTON: Photographs 1 and 2.

16 MR. RICHARDSON: Okay.

17 Q. (By Ms. Livingston) In Photographs 3 and 4, could you
18 tell us how that material in those photographs got there?

19 A. That was also dumped on us.

20 Q. Did you give anyone permission to put this material
21 there?

22 A. No, ma'am.

23 Q. Do you know who put the material there?

24 A. Yes, ma'am.

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1 Q. Who put the materials -- do you know who put all the
2 materials here?

3 A. No, ma'am. I know who put some of the material on the
4 first landing there, because I was told at a later date that he
5 had put them there because of the water at the bottom of the

6 hill. Because we were having a flood at that time, and there was
7 approximately a foot of water on the road, and he did not want to
8 dump the material in the water. So he put this material up there
9 on that landing figuring it was better than dumping it in the
10 water, to be taken to J&P Scrap Metal and then removed.

11 Q. That material was mostly metals?

12 A. Yes.

13 Q. In photograph -- the two photographs labeled Number 5,
14 could you tell us what is in these areas?

15 A. Most of that material -- there is a trailer. The photo
16 he has is a trailer. You can see like an ice container. That
17 was taken out of one of the trailers from the 1993 flood water.

18 Anybody that has been through the 1993 flood -- we lost our
19 house and stuff in that. We had a number of materials that we
20 have been cleaning up, and we still have a trailer that we are
21 still cleaning out. That was put there out of that trailer from
22 the flood of 1993.

23 Q. Then the very last photograph, Number 7?

24 A. Those materials are on skids and they are all on metal

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1 under the skids. We put a plate of steel down and set the skids
2 on the plate of steel to where the skids would not rot as fast on
3 the metal.

4 Q. Could you tell us again when you first saw these piles
5 in Photographs 1 and 2 and 3 and 4?

6 A. I saw those when we got back off of vacation. We were
7 gone for about two weeks.

8 Q. And approximately when was that?

9 A. That would be approximately two weeks -- it might have
10 been three weeks prior to that picture being taken. So it would
11 be in June.

12 Q. June of 2001?

13 A. Yeah.

14 Q. Did you know that anyone was going to dump materials on
15 your property?

16 A. No, ma'am.

17 Q. Did you know that the person who put the metals there
18 was going to put the metals there?

19 A. No, ma'am. We had the metal cleaned up at that site
20 before, and we had been trying to continue to keep it cleaned up.

21 Q. Did you own the salvage yard at the time these materials
22 were dumped on your property?

23 A. No, ma'am.

24 Q. Do you own it now?

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1 A. No, ma'am. I am in the process of buying it at this
2 time.

3 Q. Could you tell us what kind of materials that you accept
4 at the salvage yard at this time?

5 A. We accept anything that is recyclable; aluminum, brass,
6 copper, nonferrous materials, ferrous materials at that site at
7 this time. There is some things that we don't accept.

8 Q. I am going to show you what I am marking as Respondent's
9 Exhibit Number 1.

10 (Whereupon said photograph was duly marked for purposes of
11 identification as Respondent's Exhibit 1 as of this date.)

12 Q. (By Ms. Livingston) Do you recognize this photograph?

13 A. Yes, I do.

14 Q. Did you take the photograph?

15 A. Yes, I did.

16 Q. Could you tell us what is the photograph of?

17 A. This is a photograph of our gate keeping procedures that
18 we have been working on. There is a sign to let the people know
19 when we are not there, like at night. There is people that come
20 in like right now and I am up here. So, therefore, there is
21 nobody at the business, because my wife is in the hospital. So I
22 put up a sign that says some of the things that we do not accept.

23 Q. Could you tell us what the sign says?

24 A. The sign says, J&P Scrap Metal, we do not accept wood,

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1 plastic, carpet, tires, clothes containers, white goods with
2 Freon or any other EPA restricted items.

3 MS. LIVINGSTON: I would move for the admission of this
4 photograph.

5 MR. RICHARDSON: I have no objection.

6 HEARING OFFICER LANGHOFF: Okay. Thank you. It will be
7 admitted. Respondent's Exhibit Number 1 is admitted.

8 (Whereupon said document was admitted into evidence as
9 Respondent's Exhibit 1 as of this date.)

10 Q. (By Ms. Livingston) When you are not appearing at
11 Pollution Control Board hearings, are you at the salvage yard all
12 day?

13 A. No. We are closed on Sundays. We are closed on
14 Mondays. We take weeks of vacation.

15 Q. Did you place any material on your property that was not
16 recyclable?

17 A. No, ma'am.

18 Q. Did you place some of the materials seen in the
19 photographs?

20 A. There was some wood on the property up on the Photograph
21 4 that my son had since then sold. It come out of a building.
22 It was slap boards. And a guy was going to buy it that makes
23 cabinets and used it for the cabinet backs.

24 Q. How much did he pay you for it?

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1 A. They paid a \$1.50 a board for it.

2 Q. Did you have any materials on the site that Mr. King
3 indicated were okay for you to have on the property prior to July

4 5th?

5 A. Yes, the things that were on skids, it was okay to have
6 those there. And we are even in the process of eliminating those
7 at this time.

8 Q. Did you clean the piles up that were dumped on you?

9 A. Yes, I did.

10 Q. Where did this stuff end up?

11 A. We had it hauled -- we put it on trucks to recycle it at
12 the East St. Louis Auto Shredder. And some of the cleaner
13 material went to Azcon Incorporation, which is also a metal
14 company.

15 Q. Do you regularly take things to St. Louis Auto Shredder
16 and to Azcon?

17 A. Yes.

18 Q. Did you ask your brother to provide you with receipts
19 from the time period at which you cleaned this material up?

20 A. Yes, I did.

21 Q. Did he provide you with receipts?

22 A. Yes, he did.

23 Q. I am going to show you what I am going to mark as
24 Respondent's Exhibit Group 2.

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1 (Whereupon said documents were duly marked for purposes of
2 identification as Respondent's Group Exhibit 2 as of this
3 date.)

4 Q. (By Ms. Livingston) Are these the receipts that your
5 brother provided you with?

6 A. Yes, they are.

7 Q. On one of these receipts I notice that the date is July
8 20th of 2001 to Azcon; is that true?

9 A. Yes.

10 Q. I notice on some of the other receipts that the dates
11 are from September and from June. Can you explain that?

12 A. I think he give me the wrong receipts. We haul material
13 continuously down there, and these may be just the receipts that
14 he had prior to hauling the stuff before.

15 He hauled it -- like, he may have hauled it from my place
16 to his and then got rid of it. I tried to get him to get as
17 close to when he got rid of it to show you that he got rid of it,
18 and where he went with it.

19 MS. LIVINGSTON: I am going to move for admission of
20 Respondent's Group Exhibit Number 2.

21 HEARING OFFICER LANGHOFF: Any objections?

22 MR. RICHARDSON: I would object to the exhibit as well as
23 the testimony leading to it as to its lack of relevance to the
24 site conditions on July 5th of 2001.

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1 HEARING OFFICER LANGHOFF: I am going to overrule your
2 objection and admit Respondent's Group 2.

3 (Whereupon said documents were admitted into evidence as
4 Respondent's Group Exhibit 2 as of this date.)

5 Q. (By Ms. Livingston) Did you take some photographs of
6 what the property looks like now, Mr. Springer?

7 A. Yes, I did.

8 (Whereupon photographs were duly marked for purposes of
9 identification as Respondent's Group Exhibit 3 as of this
10 date.)

11 Q. (By Ms. Livingston) I am going to show you a Polaroid
12 photograph that I have marked as Group Exhibit Number 3. Do you
13 recognize this?

14 A. Yes, I do.

15 Q. Does that reasonably and accurately depict what your
16 property looks like today?

17 A. Yes, it does.

18 Q. Did you take this photograph?

19 A. Yes, I did.

20 Q. What day did you take it?

21 A. I took this yesterday.

22 Q. Okay. I know that you took another set of photographs,
23 which I have also marked as Group Exhibit Number 3. I wondered
24 if you might be able to go through them with us? And as you do I

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1 will mark the backs A, B, C and D.

2 A. This here is the picture of the driveway going up the

3 hill from the road.

4 Q. Okay. That would be A.

5 A. This here is a picture from the back of the shed
6 forward, going towards the road. This is the -- at the bottom of
7 the picture you can see the phone cable going down the road.

8 Q. Okay.

9 A. This, again, is a picture in front of the house. That's
10 the front yard there.

11 Q. If any of these pictures relate to the photographs of
12 July 5th, will you please indicate that as you go through them?

13 A. Okay. These here are some semis that we own. These
14 trailers we own. It is pictures of things that we started doing
15 since these pictures were taken.

16 Q. Okay.

17 A. This here is a photo of 4.

18 Q. I am going to number this E, 3E. You are saying that
19 the --

20 A. That is the same photo that Charlie had taken
21 approximately the same direction that he had taken of Exhibit 4.

22 Q. Okay. Thank you.

23 A. This here is a picture from the photo that he had taken
24 from approximately the same direction of 3.

1 Q. Okay.

2 A. This is a photo of the landing, which that is of the
3 third landing, which is below the one that he had complained
4 about in Exhibit 1 and 2. That is the landing below that.

5 We live on kind of a hillside, so we had to -- where the
6 shed is was all dug in, and we just call them landings. This
7 here is an Exhibit of 3 and of 1 and 2.

8 Q. Okay. I am labeling this as H.

9 A. This is another photograph of 1 and 2, of which he had
10 turned in as Photos 1 and 2. This is another one from a
11 different angle, is all.

12 Q. Of the Photo 1 and 2 area?

13 A. No, of 3 and 4 area.

14 Q. Okay.

15 A. And these are the same photos of this. This is the
16 landing 75 feet below the shed, and this here is also the third
17 landing and the second landing here.

18 Q. Okay.

19 A. And the front yard and the house.

20 Q. When did you take these photographs?

21 A. We took these photos -- it has been two or three weeks
22 ago.

23 MS. LIVINGSTON: Would you like to see what I have written
24 on the back of them?

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1 MR. RICHARDSON: No.

2 MS. LIVINGSTON: You are just to going to object.

3 Q. (By Ms. Livingston) Do these photographs reasonably and
4 accurately depict what you saw two weeks ago when you took the
5 photographs?

6 A. Yes.

7 Q. In your view, do those photographs show that the areas
8 have been cleaned up?

9 A. Yes, ma'am.

10 Q. I would like to show you what I am going to mark as
11 Group Exhibit Number 4.

12 (Whereupon said photographs were duly marked for purposes of
13 identification as Respondent's Group Exhibit 4 as of this
14 date.)

15 Q. (By Ms. Livingston) Could you tell us what these are
16 photographs of?

17 A. These are the photographs that were taken on the 5th --
18 I mean the 15th of May of this year. They are this year's -- we
19 had a flood down there. The water was about five feet deep over
20 the road. This is just different angles of the flood and what we
21 have to do when it does flood.

22 You canoe in and out. After it gets to a certain depth,
23 you can't drive no more. Last year there was a flood similar to
24 this one. It was approximately the same, and that's the reason I

1 took these.

2 Q. In May, when you took these photographs, was the only
3 way to access your property through the canoes in these pictures?

4 A. Canoe or boat.

5 Q. When Mr. King originally visited your site based on a
6 complaint from a neighbor, was the material at your site at that
7 time material from the 1993 or 1995 flood clean up?

8 A. No.

9 Q. No.

10 A. That material was dumped on us at approximately the same
11 time the flood was. They had to drive through the water during
12 the 2001 flood. My brother told me that he had went through
13 about a foot of water with his truck and dumped it up there.

14 Q. I am sorry. I was not clear in my question. Mr. King
15 testified that he had been to your site before. And I am asking
16 you during the period of time that he originally visited your
17 site if the materials that he was complaining of at that time had
18 to do with materials that were related to the flood?

19 A. No, they were not.

20 Q. Okay. When you take material to St. Louis Auto
21 Shredder, do you know what they do with the material?

22 A. We just sell it to them. I understand that they recycle
23 it. They have a landfill to take out any carpet or wood or
24 things like that that may be in the loads. And they take it to

1 their landfill and landfill the material.

2 Q. But they do pay you to take the materials there?

3 A. Yes, they do. We do get paid.

4 Q. All of the materials that you took off of this site, St.
5 Louis Auto Shredder paid you for?

6 A. Yes.

7 Q. Was the bulk of the material metal?

8 A. Yes.

9 Q. Was the property cleaned up the day Charlie came and
10 gave you a copy of the Administrative Citation?

11 A. It was not totally cleaned up, but it had been greatly
12 improved. We had already cleaned a lot of the piles by the shed
13 and things. And Charlie said something about the truck that was
14 sitting up on the landing at that time, because the hood was up.
15 He didn't think that was -- that it should be there either.

16 Q. In your opinion, with respect to materials that are
17 recyclable and nonrecyclable, on the day that Mr. King brought
18 the Administrative Citation, do you think that all nonrecyclable
19 materials had been removed from your site?

20 MR. RICHARDSON: I am going to object to that question for
21 lack of foundation.

22 HEARING OFFICER LANGHOFF: I am going to overrule the
23 objection and let you answer if you can.

24 THE WITNESS: There was no nonrecyclable materials on

1 our -- that we could not haul to the East St. Louis Auto
2 Shredder.

3 Q. (By Ms. Livingston) Had you and Mr. King had some
4 previous conversations about how you ought to keep your yard
5 organized?

6 A. Yes, we have had a conversation. He said that if the
7 things that were there were on skids and piled up, organized,
8 that they would be okay to be there.

9 Q. I just want to have you repeat. Did you give anyone
10 permission to put any materials on your property that Mr. King
11 took pictures of on July 5th?

12 A. No, I did not.

13 Q. And did you put that material there yourself?

14 A. No, I did not.

15 MS. LIVINGSTON: I have no other questions for Mr.
16 Springer.

17 HEARING OFFICER LANGHOFF: Thank you, Ms. Livingston.

18 Mr. Richardson?

19 MR. RICHARDSON: Yes.

20 CROSS EXAMINATION

21 BY MR. RICHARDSON:

22 Q. Mr. Springer --

23 HEARING OFFICER LANGHOFF: Actually, I am sorry, Mr.
24 Richardson, if I could interrupt.

1 Ms. Livingston --

2 MS. LIVINGSTON: Would you like me to move for --

3 HEARING OFFICER LANGHOFF: Yes, let's take care of that

4 now. There might be some issues, and then maybe the

5 cross-examination might rest on some of the objections.

6 MS. LIVINGSTON: All right. I would move for the admission

7 of Group Exhibit Number 3 and Number 4.

8 HEARING OFFICER LANGHOFF: Okay. Do you have any

9 objections to Group 3, Mr. Richardson?

10 MR. RICHARDSON: I will repeat my objection about the

11 relevancy to the July --

12 HEARING OFFICER LANGHOFF: Is that to the whole group?

13 MR. RICHARDSON: Yes.

14 HEARING OFFICER LANGHOFF: Okay. Could I see the

15 photographs?

16 MS. LIVINGSTON: This would be Group 3, and this would be

17 Group 4.

18 HEARING OFFICER LANGHOFF: Thank you. Basically Group 3,

19 in my opinion, is showing what the site looks like now after it

20 was supposedly cleaned up. Some of the pictures might be of the

21 same views of the pictures that were in 1 through 7 that are in

22 the report.

23 On the grounds of relevance I am going to overrule your

24 objection and admit Group 3, and the same for Group 4. Group 4

1 is showing this year's flood, correct?

2 MS. LIVINGSTON: Correct.

3 MR3. RICHARDSON: And I make the same objection.

4 HEARING OFFICER LANGHOFF: Yes, it is understood. I am
5 going to overrule that objection also and let Group 4 in. I will
6 admit Group 4, and let Mrs. Livingston argue as to what these
7 pictures may or may not show.

8 (Whereupon said photographs were admitted into evidence as
9 Respondent's Group Exhibit 3 and 4 as of this date.)

10 MS. LIVINGSTON: Thank you.

11 HEARING OFFICER LANGHOFF: I apologize. Mr. Richardson.

12 CROSS EXAMINATION

13 BY MR. RICHARDSON:

14 Q. Mr. Springer, now, what is your relationship to J&P --
15 is it J&P Metals?

16 A. J&P Scrap Metals.

17 Q. J&P Scrap Metals across the road from your property,
18 what is your current relationship to that site?

19 A. My brother owns that facility.

20 Q. Okay. Are you trying to buy that facility?

21 A. Yes, sir.

22 Q. Okay. Are you in any type of operational or management
23 capacity with that facility yet?

24 A. Yes, sir.

1 Q. Okay. What is that?

2 A. I have been managing it, and as I have been buying it,
3 when we agreed to -- when he agreed to sell it to me, then I
4 started to manage the property, and that's what I do now.

5 Q. Is it fair to say that since you entered into this
6 agreement with your brother that you have been running the
7 operations across the road at J&P Scrap Metals?

8 A. Mostly, yes.

9 Q. Okay. When did that first start, if you can remember
10 like a month or a year?

11 A. It was probably two years, I would say.

12 Q. Two years ago?

13 A. I would say.

14 Q. Okay.

15 A. We have never signed a paper, we just -- it is an
16 agreement.

17 Q. Okay. How much longer does that agreement basically
18 have left to run on it?

19 A. Until it is paid off.

20 Q. Do you have an estimate of about how long that will
21 take?

22 A. Not at this time.

23 Q. Okay. Now, I think during your direct testimony there
24 was a reference made to the first 005 photo. I think we are

1 talking about this dairy foods cooler; is that --

2 A. Uh-huh.

3 Q. Am I correct that Ms. Livingston previously asked you

4 about that?

5 A. She asked me what that photo was.

6 Q. Okay. Is this the item that you were referring to as

7 being left over from the 1993 flood?

8 A. That came out of a trailer in the 1993 flood.

9 Q. Right. So, I mean, you know that that is -- that it

10 ended up being where it is and started out because it was damaged

11 during the 1993 flood?

12 A. No, sir, it was actually usable. It was in the trailer.

13 Q. Okay.

14 A. And we took it out of the trailer and thought we would

15 see if it was going to work.

16 Q. Do you remember approximately when that was?

17 A. It was prior to the photo. I mean, I don't --

18 Q. Do you know how long prior to the photo?

19 A. No, sir.

20 Q. Okay. Now, also I wanted to ask you if you would look

21 at photographs 1, 2, 3 and 4. You are now running or managing a

22 scrap yard. Are those -- do these pictures depict what you would

23 consider to be an acceptable management practice, good

24 housekeeping practice at a scrap yard?

1 A. I would say that lacking of what we have started -- the
2 carpet and things like that, I would not accept if I would have
3 been there in those pictures.

4 Q. Okay.

5 A. I would not accept those.

6 Q. Okay. That really wasn't -- I didn't mean accepting as
7 in receiving. I just meant that if you are running -- if this
8 were a scrap yard and you were running it, I mean, does it look
9 like there is good business practice going on there, good
10 management of materials at the site?

11 MS. LIVINGSTON: I am sorry. Are we referring to the
12 photographs that were open dumped on him?

13 MR. RICHARDSON: I am referring to the Photographs 1, 2, 3
14 and 4.

15 THE WITNESS: I would not have done it this way, no.

16 Q. (By Mr. Richardson) Okay. I assume you would not allow
17 a condition like that to exist at your yard?

18 A. Not very long.

19 Q. Okay. Now, you do know or don't you know who open
20 dumped the materials on you or that you claim open dumped the
21 materials on you that Mr. King saw on July the 5th of 2001?

22 A. I do know of some that was dumped on me.

23 Q. Okay. Now, are you saying there is more than one person
24 that dumped on you that day?

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1 A. Yes, there is.

2 Q. Okay. Or during -- I guess you said that you were on
3 vacation --

4 A. For two weeks.

5 Q. -- during that time period?

6 A. Since then I have found out, you know, things, why they
7 were there, you know, the reasoning.

8 Q. Okay. I think you stated on direct testimony that the
9 road was probably flooded and so they just decided to dump it on
10 you. Have these people dumped on you before? I mean, why
11 wouldn't these people just take their stuff home until the scrap
12 yard was open?

13 A. Because there was --

14 MS. LIVINGSTON: I would object as being speculative. How
15 could Mr. Springer --

16 HEARING OFFICER LANGHOFF: Okay. Thank you.

17 MS. LIVINGSTON: -- know what other people do?

18 HEARING OFFICER LANGHOFF: Any argument, Mr. Richardson?

19 MR. RICHARDSON: I am just trying to inquire further. I
20 mean, he made the statement that they decided to dump it there.

21 HEARING OFFICER LANGHOFF: What about the speculation?

22 MR. RICHARDSON: Well, I am just asking as to his
23 knowledge. If he doesn't know anything, that's fine, too. I
24 just didn't know -- I was mainly going at has this been a

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1 practice in the past.

2 HEARING OFFICER LANGHOFF: Could you ask the question
3 again?

4 MR. RICHARDSON: Sure. Do you want me to rephrase it --

5 HEARING OFFICER LANGHOFF: Please.

6 MR. RICHARDSON: -- to possibly clean it up?

7 HEARING OFFICER LANGHOFF: And please feel free to object
8 again, Ms. Livingston, if you have an objection.

9 MS. LIVINGSTON: Thank you.

10 Q. (By Mr. Richardson) I mean, if you know, I mean, why
11 would people dump stuff on you instead of just taking it back
12 home and waiting for the scrap yard to be open when the road
13 dried out?

14 A. Because there was a foot of water there, and they did
15 not want to dump it in the water.

16 Q. But why didn't they just take it home until they could
17 dump it properly somewhere else?

18 HEARING OFFICER LANGHOFF: I am going to treat the
19 objection as a running objection, and I am going to sustain the
20 objection. You know, you can --

21 MS. LIVINGSTON: Thank you.

22 HEARING OFFICER LANGHOFF: -- ask the question if he knows.
23 But it is speculation, in my opinion, and I am going to sustain
24 the objection.

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1 MR. RICHARDSON: Okay. I will just take a couple seconds
2 more here.

3 HEARING OFFICER LANGHOFF: No problem. For the record, I
4 would like to state that Ms. Livingston appeared to be about to
5 make another objection on the same lines. It was very clear.

6 MS. LIVINGSTON: Thank you.

7 MR. RICHARDSON: I have no further questions.

8 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
9 Richardson.

10 Any redirect, Ms. Livingston?

11 MS. LIVINGSTON: I have no redirect.

12 HEARING OFFICER LANGHOFF: Okay. Thank you, Mr. Springer.
13 You may have a seat.

14 THE WITNESS: Thank you.

15 (The witness left the stand.)

16 HEARING OFFICER LANGHOFF: Anything else, Ms. Livingston?

17 MS. LIVINGSTON: I have no further evidence, sir.

18 HEARING OFFICER LANGHOFF: Okay. Thank you.

19 Mr. Richardson, I assume nothing else?

20 MR. RICHARDSON: Nothing in rebuttal.

21 HEARING OFFICER LANGHOFF: Okay. Let's go off the record
22 for just a minute, please.

23 (Discussion off the record.)

24 HEARING OFFICER LANGHOFF: All right. We are back on the

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1 record.

2 We have just had an off-the-record discussion regarding the
3 filing of posthearing briefs. The parties have agreed to waive
4 the submission of written briefs, and they will make their
5 arguments orally now.

6 The transcript of the proceedings will be available from
7 the court reporter by July 9th.

8 I want to note, again, for the record, that there are no
9 members of the public present here today. Any posthearing
10 comments, public comments, must be filed in accordance with
11 Section 101.628 of the Board's Procedural Rules. Public comments
12 must be filed within 14 days, or by July 10th of 2002.

13 The mailbox rule set forth at 35 Illinois Administrative
14 Code 101.102(d) and 101.144(c) will apply to the posthearing
15 filings.

16 At this time I will go ahead and make a statement as to the
17 credibility of the witnesses, since we are going to have
18 arguments after this. This statement is to be based on my legal
19 judgement and experience and, accordingly, I state that I found
20 all the witnesses testifying today to be credible. Credibility
21 should not be an issue for the Board to consider when it is
22 rendering its decision in this case.

23 MS. LIVINGSTON: Thank you.

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1 MR. RICHARDSON: Thank you. On behalf of the Illinois EPA,
2 I would submit that the Agency has met its burden today in
3 proving this particular violation that was alleged in the
4 Administrative Citation.

5 We have the testimony of Mr. King, a ten year plus veteran
6 of performing land inspections. He went to the site. He,
7 obviously, had been to the site before. He was familiar with it.
8 He told you what he observed in these pictures, and he told you
9 what he observed on that date, both in his testimony and then
10 through the pictures that have been admitted.

11 We had approximately two different areas, one 75 feet down
12 slope of a storage building, one sort of snaking around the
13 storage building, where there were various metals, but there were
14 also various other items, cardboard, paint cans, carpeting. I
15 think it is fairly clear in the pictures that there is more out
16 there than just metals and, certainly, it is in a great disarray
17 at that particular site.

18 He gave his opinion that the items were litter, and that
19 the site does not have any permits or any type of waste storage
20 or waste disposal operation, and that there are no gates or
21 fencing or other measures to control access to the site.

22 One difference in the two witnesses testimony that I picked
23 up on was that Mr. King testified that on the day he was there

24 that Mr. Springer claimed that only the area snaking around the

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1 building, identified in Photos 3 and 4, was allegedly open dumped
2 on him. Today Mr. Springer is saying that both the areas
3 described -- the area described in 1 and 2 and the area snaking
4 around the building in Photographs 3 and 4 were open dumped on
5 him. I mean, I don't know why that claim was not made the day
6 Mr. King was out there if that, indeed, was the fact. But more
7 importantly, I don't know what difference that makes.

8 Obviously, the statute, the Act, refers to causing or
9 allowing the open dumping of any waste resulting in litter at the
10 dump site. The Board has a long history of cases where somebody
11 buys a piece of property that already has open waste dumped on
12 it. They can be held responsible for that. If you have people
13 open dump on you, that is also -- causes liability under the Act.

14 And that is why I asked about control measures for the
15 site. I mean, one of the problems that I think is common
16 knowledge about open dumps is that when you have open dumping or
17 waste scattered out like this, it attracts other open dumping.
18 It is a magnet. Now, exactly why people would come on to his
19 property, dump it, instead of going back home and waiting for,
20 you know, the waters to clear, or say, go to another landfill or
21 go to another scrap yard, I don't know. I don't know.

22 But I don't really think that speaks of a lot of common

23 sense or reason to just think I am driving by to drop a load of
24 stuff off, and I can't go ahead, so, well, I will just dump it

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1 here because I just want to be done with it. I think, at a
2 minimum, site conditions make it look like, you know, this is
3 already an area that there is junk, so my extra load isn't going
4 to hurt. Or else there may be other reasons why this material
5 was dumped there.

6 But basically without any gates or fencing at the entrance
7 of -- I think Ms. Livingston asked about, you know, this was his
8 personal residence. But many people have gates or fences around
9 their property, and this is one of the reasons why. They don't
10 want trespassing or they don't want even people they may be
11 acquainted with or even friends maybe coming on their property
12 and doing things that they would rather not have them do.

13 So I think that this defense -- I just don't see it as a
14 defense as to whether or not someone else did it. I mean, the
15 mess was there, and for what -- like I say, the scrap yard is
16 across the street. So why something being over across the street
17 would make somebody do something across the road, I don't really
18 understand that.

19 But I would submit that we have shown this area -- even Mr.
20 Springer, now as a manager or operator of a scrap yard, told me
21 on cross-examination, yeah, 1, 2, 3 and 4, those photos show
22 unacceptable conditions at a scrap yard. That's the point.

23 That's the point. I mean, there is no organization. It is not
24 really clear that he is operating a business here. If he is, it

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1 is certainly based upon a lot of speculation. I think that was
2 even brought up, depending on prices at the scrap yard, I take
3 stuff in.

4 Well, if we all depended on market prices, probably a lot
5 of us would be broke. I mean, it is a very speculative market.
6 Sometimes it is good and sometimes it is bad. And I think that
7 fact, that there is really not a business being run here, or any
8 particular goals in mind with this, that this is the kind of
9 situation that you get, the speculative accumulation of materials
10 and also some materials that are not even recyclable. I mean,
11 you can't recycle carpet, as far as I know. If you do, it is
12 probably a very cottage industry.

13 But there are many other wastes there that probably have
14 just minimal, if any, scrap value. And it is obvious that they
15 are not being gotten to. Because, again, Mr. King was told that
16 the second area in Photos 3 and 4, was open dumped, not the first
17 area or the metals in the other area. So that is the picture I
18 am painting with this, and what I am basing my arguments on.

19 So, therefore, in light of all these facts and in light of
20 the fact that at the end of the day the law says what it does and
21 that you cause or allow, and that is certainly what happened

22 here. There were no reasonable measures to stop people from
23 doing this. And I think this is what happens. Yes, it may be
24 unfortunate that this has happened to Mr. Springer, but there are

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1 many other unfortunate people this has happened to and, you know,
2 they have been held liable for these items.

3 So, therefore, I would ask that the Board find the
4 Springers responsible and liable for this violation and assess
5 the statutory penalty.

6 HEARING OFFICER LANGHOFF: Thank you, Mr. Richardson.

7 Ms. Livingston.

8 MS. LIVINGSTON: Well, Mr. Springer and Mrs. Springer have
9 certainly fallen on rough times with the flooding and the health
10 issues. They are trying to better themselves, Mr. Springer, by
11 becoming an MT.

12 I understand that the only issue is what was present on
13 July 5th. But the materials in Photograph 1 and 2 and 3 and 4
14 were not placed there by Mr. Springer.

15 I guess -- I know Mr. King to be a rather perceptive
16 person. But I guess the only explanation that we can give for
17 the difference of opinion as to what material was dumped on Mr.
18 Springer is a miscommunication at the site or some other
19 communication that didn't take place. But Mr. Springer was a
20 credible witness and he did testify that the materials in
21 Photograph 1 and 2, which are the same materials from different

22 angles, were also illegally dumped on him.

23 While the person who put those materials there illegally
24 dumped on them, dumped those materials on to Mr. Springer,

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1 because they intended to get rid of them, and they did not get
2 paid for them, Mr. Springer, in having those materials dumped on
3 his yard, did, in fact, recycle those materials at St. Louis Auto
4 Shredder and at Azcon. So the metal and the wood was recycled
5 and reused.

6 Mr. Richardson commented that Mr. Springer admitted that
7 Photographs 1 and 2 and 3 and 4 would be an unacceptable
8 condition at a scrap yard. Of course, because he doesn't run his
9 scrap yard in that manner. You saw the sign that he has on the
10 gate and there is a gate at the scrap yard indicating that these
11 are the types of material that we do not accept, including carpet
12 and cardboard and the materials that Mr. Richardson and Mr. King
13 object to.

14 If you look at the definition of waste in the Act, it talks
15 about anything that is discarded. If you look discarded up in
16 the American Heritage Dictionary or a Webster's, it will say
17 thrown away. Obviously, the person who put those materials there
18 was throwing them away. But Mr. Springer recycled those
19 materials and removed those materials from the site. And the
20 site, where the materials were disposed of, was his yard. He

21 lives in the country. It is a big yard. And not the scrap yard.

22 With respect to why someone would dump it there and not go
23 back home after they saw the flooding at the scrap yard, one
24 could only speculate that they had to have a truck to do it, so

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1 they probably needed to use their truck another day, and they had
2 intended to take it out there, so they just dropped it off. I
3 don't know that we have to understand the motives of the person
4 who did this.

5 But Mr. Springer testified that he gave no one permission
6 to do this, that he did not do this himself and that he did, in
7 fact, clean the materials up. And Mr. King testified that he had
8 no reason to believe that Mr. Springer put the materials there
9 himself, so he did not doubt his word.

10 With respect to the photographs at the end of the EPA's
11 inspection report, Mr. Springer's materials are metal. And Mr.
12 King testified that there was a lot of clutter. Clutter and
13 litter are not the same thing. I can understand the Agency's
14 view, that things should be placed on skids and pallets and not
15 throughout a property. But the fact that there is no clear
16 organization at a certain point in time of material that is, in
17 fact, recyclable and was recycled is not consistent with the
18 regulations.

19 If that material is not a waste, then it is not regulated.
20 The testimony was that there is no reason for Mr. Springer to get

21 an Agency permit, and there are no regulations or statutory
22 requirements that would require him to get a permit or that would
23 regulate the recyclable materials at this site.

24 Mr. Richardson mentioned that you can't recycle carpet or

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1 at least that that was not what was being done. Well, Mr.
2 Springer does not accept carpet at the scrap yard, and he didn't
3 accept carpet at his house. Someone put it there, and he took it
4 to St. Louis Auto Shredder. One might question what they do with
5 it. But they apparently pay people to bring materials in that
6 have other materials mixed in with them. So Mr. Springer was not
7 on notice that this material would be unacceptable when he went
8 to recycle it. The Agency might have a preference that this
9 material be placed on skids. But, again, clutter is not litter.

10 Mr. Springer has shown his intentions. He cleaned the
11 material up. He is buying the business that does the scrap. He
12 has instituted gate keeping procedures. He has put a sign on a
13 gate. He does have a gate at that facility.

14 While I realize that the only issue for the Board to decide
15 is what was the property like on July the 5th, the Environmental
16 Protection Agency must show that Mr. Springer and/or his wife
17 caused or allowed open dumping of waste. They did not cause or
18 allow anything, and the material that was brought to the site
19 was, in fact, recycled, and so it was not, in fact, a waste.

20 Now, I would think that carpet mixed in with things would,
21 in my view, having been a prosecutor and did this for eight
22 years, would be waste. But Mr. Springer didn't put it there.
23 And he did, in fact, take it to a recycling facility which
24 accepted it. So we do not have any causing or allowing of open

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1 dumping. And we do not have any waste that Mr. Springer placed
2 on that property. And the material that was there was removed
3 and properly recycled. So we do not have a violation of the Act.

4 I can understand that Mr. King has been frustrated in the
5 fact that he has been at this site numerous times, and I am sure
6 open dumping complaints are a little beneath his skills, since he
7 does RCRA and landfills and other important things, and that
8 might also explain why the inspections are -- there are long
9 periods between the inspections. But that frustration of having
10 to continue to go to the site and of not having the material in
11 an organized manner on skids does not constitute open dumping.

12 The Agency can have its preferences for how it wants things
13 to be, but you have to -- the Agency has to show a violation.
14 And Mr. Springer did not intend to violate the law, obviously,
15 although intention is not required. But he did not cause and he
16 did not allow. There was no permission and there was no active
17 activity on his part.

18 So we would ask that the Board not only see the evidence
19 for what it is, but also, in their wisdom, express what would be

20 equitable and fair in this circumstance. Mr. Springer was not
21 given any time to remove these materials, which he did indicate
22 were dumped on him. And they were not materials consistent with
23 the other materials that he had on the site, in Photograph 7, the
24 metals in barrels and on skids.

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1 He would have no reason to want to take materials that
2 would not profit him since, as Mr. Richardson pointed out, this
3 is a side business that is not always lucrative, as the market is
4 speculative. This is something that Mr. Springer has found
5 himself having to do to make ends meet. And while the Board
6 can't see where we are, we are somewhat in the middle of no
7 where. This is just the circumstances that we find ourselves
8 under.

9 We would ask that they not find the Springers responsible
10 for this violation and not have them pay a civil penalty. Thank
11 you.

12 HEARING OFFICER LANGHOFF: Thank you, Ms. Livingston.

13 Mr. Richardson, anything else on short --

14 MR. RICHARDSON: Just very briefly. I would just conclude
15 by saying that I think during Mr. King's testimony he did
16 indicate that some of the material he saw out there on July the
17 5th of 2001 was historical material, was not new for that day. I
18 would just ask the Board to focus on that aspect of the

19 testimony.

20 Also, I do agree that Mr. Springer -- the Springers, in
21 their personal life, certainly have some challenges. Certainly,
22 what he is doing now with the scrap yard, great. But the thing
23 is we are looking at July the 5th of 2001. Whether it is
24 actively causing or allowing or passively causing or allowing, I

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1 think the Board has a much more liberal view of the definition
2 than Ms. Livingston does.

3 For that reason -- it, apparently, is being cleaned up
4 afterwards. Well, you know, that's great. But that is really
5 not evidentiary as to what the situations were on July the 5th of
6 2001. So, again, I would just ask the Board to find in the
7 Illinois EPA's favor.

8 HEARING OFFICER LANGHOFF: Okay. Thank you. Is there
9 anything we need to discuss on the record before we conclude the
10 proceedings?

11 MR. RICHARDSON: I don't think so.

12 HEARING OFFICER LANGHOFF: Okay. Seeing nothing, at this
13 time I will go ahead and conclude the proceedings. It is
14 Wednesday, June 26th, 2002, at approximately 11:32 in the
15 morning. We stand adjourned.

16 Thank you all for your participation and I wish everyone to
17 have a good day and drive safely.

18 MS. LIVINGSTON: Thank you.

19 MR. RICHARDSON: Thank you.

20 HEARING OFFICER LANGHOFF: Thank you

21 (Hearing Exhibits were retained by

22 Hearing Officer Steven Langhoff.)

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2) SS
3 COUNTY OF MONTGOMERY)

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

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 74 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 26th of June A.D.,
9 2002, at the Jersey County Courthouse, 201 West Pearl Street,
10 Jerseyville, Illinois, in the case of IEPA v. Terry and Litisha
11 Springer, in proceedings held before Hearing Officer Steven
12 Langhoff, and recorded in machine shorthand by me.

13 IN WITNESS WHEREOF I have hereunto set my hand and affixed
14 my Notarial Seal this 2nd day of July A.D., 2002.

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Certified Shorthand Reporter and
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