

**PT 99-53**  
**Tax Type: Property Tax**  
**Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS**  
**DEPARTMENT OF REVENUE**  
**OFFICE OF ADMINISTRATIVE HEARINGS**  
**SPRINGFIELD, ILLINOIS**

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<b>I &amp; I ANTIQUE TRACTOR</b>	)		
<b>AND GAS ENGINE CLUB</b>	)		
<b>Applicant</b>	)		
	)	<b>A. H. Docket #</b>	<b>98-PT-0043</b>
<b>v.</b>	)	<b>Docket #</b>	<b>97-10-192 THRU 97-10-196</b>
	)		<b>97-10-204 AND 97-10-205</b>
<b>THE DEPARTMENT OF REVENUE</b>	)		
<b>OF THE STATE OF ILLINOIS</b>	)		

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Mr. William R. Scott appeared on behalf of I & I Antique Tractor and Gas Engine Club.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on November 5, 1998, to determine whether or not the 7 Champaign County Parcel Index Nos. listed in the right-hand column on Exhibit A, attached to the Notice of Decision in this matter, qualified for exemption for all or part of the 1997 assessment year.

Mr. Darius Harms, Vice President of the I & I Antique Tractor and Gas Engine Club (hereinafter referred to as the "Applicant"), was present and testified on behalf of the applicant.

Exhibit A attached to the Notice of Decision in this matter includes for each of the seven parcels here in issue a file number in the left-hand column, the Department of Revenue Docket Number in the center column, and the Champaign County Parcel Index Number (hereinafter

referred to as a “PIN”) in the right-hand column. In an attempt to avoid confusion, all references in this Recommendation For Disposition will be to the file number shown in the left-hand column.

The applicant, each summer conducts a three day show when antique tractors and other historic farm equipment are both demonstrated and on display. During 1997 this show called Historic Farm Days was held on July 11<sup>th</sup>, 12<sup>th</sup>, and 13<sup>th</sup> on the 7 parcels identified by File Nos. 1 through 7.

The issues concerning these 7 files include, first whether the applicant owned the parcels identified by these 7 File Nos. and the buildings thereon during all or part of the 1997 assessment year: secondly, whether the applicant is a charitable organization; and lastly, whether the applicant either was in the process of adapting these parcels for charitable use or actually used these parcels for charitable purposes during the 1997 assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant owned all 7 of the parcels identified by the 7 File Nos. here in issue during all or part of the 1997 assessment year. It is also determined that the applicant is a charitable organization. It is further determined that the parcels identified by File Nos. 1, 3, 5, and 7 were used for charitable or exempt purposes and therefore qualified for exemption during all or part of the 1997 assessment year. The westerly portion of the parcel identified by File No. 2 was used for charitable or exempt purposes during 1997 and qualified for exemption while the easterly portion of said parcel was vacant and unused during 1997 and consequently did not qualify for exemption. The buildings on the parcels identified by File Nos. 4 and 6 qualified for exemption during 1997 while the land portion of said parcels not occupied by buildings did not qualify for exemption.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue (hereinafter referred to as the “Department”) in this matter, namely that the 7 Champaign County PINs

identified as File Nos. 1 through 7 did not qualify for exemption for the 1997 assessment year was established by the admission in evidence of Department's Exhibit Nos. 1 through 6A.

2. On January 8, 1998, the Champaign County Board of Review transmitted to the Department, the Applications for Property Tax Exemption To Board of Review concerning the parcels contained in the files identified as File Nos. 1 through 7. (Dept. Ex Nos. 2-1, 2-2, 2-3, 2-4, 2-5, 2-6 & 2-7)

3. On March 26, 1998, the Department notified the applicant that it was denying the exemption of the parcels identified as File Nos. 1 through 7 for the reasons that the properties were not in exempt ownership and also that they were not in exempt use. (Dept. Ex. Nos. 3-1 through 3-7)

4. The attorney for the applicant then filed timely applications for formal hearing concerning each of the parcels included in the files identified as File Nos. 1 through 7. (Dept. Ex. Nos. 4-1 through 4-7)

5. The hearing in these matters conducted on November 5, 1998, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois on February 6, 1991, for the following purposes:

To join together persons interested in the preservation of tractor history and renew interest in our heritage and agricultural background; to work upon and restore old tractors, engines and equipment; to arrange for exhibits and demonstrations and to carry on the spirit of our forefathers in connection with the foregoing purposes; and to preserve some of the history and articles of such equipment for our heritage; and to do all other things permitted by "THE GENERAL NOT FOR PROFIT CORPORATION ACT OF ILLINOIS" in furtherance of the foregoing purposes. (Dept. Ex. No. 2-7F)

7. The purpose clause of the applicant's Articles of Incorporation was amended on February 7, 1997, as follows:

The Corporation is organized exclusively for charitable, educational or scientific purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code. (Dept. Ex. No. 2-7G)

8. Prior to the hearing in this matter, the applicant furnished a copy of a tax bill for one of the parcels here in issue which listed the 10 taxing districts in which each of the seven parcels here in issue is situated. The applicant received from each of the 10 taxing districts a resolution declaring that the applicant is a charitable organization using its property, including the parcels here in issue, for charitable purposes. (Appl. Ex. Nos. 6 through 15, & 18)

9. The admission charge to attend the 1997 Historic Farm Days held on the parcels here in issue was \$3.00 for adults and \$2.00 for youths, ages 12 through 16. Children 12 and under were admitted free. It was a policy of the applicant to waive or reduce the admission charge in cases of need. The persons collecting admissions were instructed to waive or reduce the admission charge in cases of need. Every person who was admitted to the show was given at no charge a show book which contained a map of the grounds and a history of the applicant and Historic Farm Days. There was no charge for parking for persons attending the Historic Farm Days. At the 1997 Historic Farm Days there were about 4,000 paid admissions and approximately 12,000 in attendance. (Tr. pp. 62, 63, & 70, Appl. Ex. No. 3)

10. In the evenings on Historic Farm Days during 1997 there was entertainment, usually country music. There was no charge for this entertainment. (Tr. p. 63)

11. During 1997 there were approximately 210 members of the applicant. Membership dues that year were \$15.00. Membership dues were waived in cases of need in 1997. Also membership dues were waived for persons who were over 80 years old. (Tr. pp. 65 & 66)

12. The applicant's statement of income and expenses for 1997 included entry fees. The entry fees consisted of an entry fee of \$5.00 for each tractor tested, which was collected for a noncompetitive tractor pull. (Tr. pp. 66 & 67, Appl. Ex. No. 4)

13. The applicant's statement of income and expenses also included vendor's rent. The applicant charged rent to the vendors at the Historic Farm Days. Most of the vendors sold used tractor and equipment parts to persons who were trying to restore antique tractors or equipment. Five or six of the vendors at the 1997 Historic Farm Days also sold flea market type goods. The space rented to vendors during the 1997 Historic Farm Days was primarily located on the parcels identified as File Nos. 4 and 6 on the land portion not occupied by buildings. (Tr. pp. 44, 45, 67, 70, 72, & 73, Appl. Ex. No. 3)

14. At the 1997 Historic Farm Days four community churches provided the food service on the grounds. They were not charged a vendor's fee but rather it was suggested that they make a contribution to the applicant after the Historic Farm Days were over, for the space they had occupied. (Tr. p. 71)

15. The applicant conducted fundraisers both during Historic Farm Days and at other times of the year. Examples of the fundraisers held in 1997 included raffling off a restored antique tractor of the featured farm equipment, sale of commemorative license plates, sale of hats, tee shirts, and cups with the applicant's logo on them, and the sale of a book about the history of farming which was published by Purdue University. (Tr. pp. 63, 64, 65, & 68)

16. During 1997, the applicant received a total of \$ 6,145.56 in contributions. (Appl. Ex. No. 4)

17. Exhibit A attached to the Notice of Decision in this matter includes for each of the seven parcels here in issue a file number in the left-hand column, the Department of Revenue Docket Number in the center column, and the Champaign County Parcel Index Number in the right-hand column.

18. The applicant first acquired the parcels on which the Penfield Grade School is located. The western portion of the school and the building known as the bus garage are located

on the parcel identified as File No. 4. To the East of the parcel identified, as File No. 4 is the parcel identified as File No 6. File No. 6 is adjacent to File No. 4 and contains the remaining portion of the school building. To the West of the South one-half of File No. 4 is the parcel identified as File No. 3. File No. 3 is adjacent to the South one-half of File No. 4. File No. 3 is a parcel which is planted in grass and has a few mature trees on it. To the South of File No. 6 is a parcel identified as File No. 7. File No. 7 is adjacent to File No. 6 and is improved with the building of the Penfield Improvement Association. To the East of File Nos. 6 and 7 is the parcel identified as File No. 5. File No. 5 is adjacent to File Nos. 6 and 7 and is used as applicant's demonstration plot. North of File Nos. 6 and 5 is a parcel identified as File No. 2. File No. 2 is adjacent to File Nos. 6 and 5 and is a former railroad right-of-way. At the west end of File No. 2 is a parcel identified as File No. 1. File No. 1 is also a portion of the railroad right of way and is adjacent to File No. 2. (Appl. Ex. Nos. 16 & 17)

19. On March 26, 1997, the applicant acquired the parcel identified as File No. 1 from the Fisher Farmer's Grain and Coal Company, Inc. The parcel identified as File No. 1 consisted of a portion of an abandoned former Illinois Central Gulf Railroad right of way. The parcel identified as File No. 1 was bare land which the applicant used for parking during the 1997 Historic Farm Days. This parcel was not used for any other purpose during 1997. (Tr. pp. 28 & 29 Dept. Ex. No. 2-1A)

20. On July 31, 1996, the applicant acquired the parcel identified as File No. 2 from the CCDC Foundation. That parcel was also a part of the former Illinois Central Gulf Railroad right-of-way. That parcel was also bare ground. The applicant used the western portion of that parcel for static displays of equipment and parking during the 1997 Historic Farm Days. The eastern portion of said parcel was not accessible because a trestle had burned down, and therefore was not used by the applicant. (Tr. pp. 29-31, Dept. Ex. Nos. 2-2 & 2-2A)

21. On June 10, 1996, the applicant acquired the parcel identified as File No. 3 from BankIllinois Trust No. 030-429-245. The parcel was acquired from the former owner of the Penfield School. The parcel was a vacant parcel with a few mature trees on it. This parcel was located to the west of the school building. During the Historic Farm Days in 1997 this parcel was used for the display of antique gas engines and other equipment. In the evening, the parcel was used as the site for the entertainment. It was also the site for the Historic Farm Days church service on Sunday morning. (Tr. pp. 31-34, & Dept. Ex. No. 2-3A)

22. On June 10, 1996, the applicant acquired the parcels identified as File Nos. 4 and 6 from BankIllinois Trust No. 030-429-245. These parcels were also owned by and acquired from the former owner of the Penfield School. These parcels were improved with the former Penfield School building. The former bus garage was also located on the parcel identified as File No. 4. (Tr. pp. 34-36 & 48)

23. The Penfield School consisted of an old school building, which contained a partial basement, and two stories. A separate building housed the gymnasium. A third building is a newer one-story school building. During 1997, the cafeteria located in the old school building was used by the applicant for its meetings. The remainder of the school buildings were used during 1997 for the storage of antique farm equipment. The larger pieces of farm equipment were stored in the gymnasium. The remainder of the buildings were used for the storage of smaller pieces and the items necessary to put on the show. During 1997, the bus garage was used to store the antique equipment, which was used to harvest the crops on the demonstration plot. (Tr. pp. 34-36, 41, & 79)

24. After acquiring the Penfield School property on June 10, 1996, the applicant proceeded to install a new heating system in the cafeteria, kitchen, and office area in the old school, repair the roofs, replace windows, and generally clean up the buildings. All of this work was done before the 1997 Historic Farm Days so that the school buildings were useable for storage of equipment and displays between the annual Historic Farm Days. (Appl. Ex. No. 3)

25. By the date of the hearing in this matter, November 5, 1998, the basement and first floor of the old Penfield School building had been adapted so that they could be used for museum displays and static displays of equipment. The museum and displays in the old Penfield School building, as of the date of the hearing, were open by appointment, for any school groups or other groups which wanted to tour them. (Tr. p. 40)

26. On March 5, 1997, the applicant acquired the parcel identified as File No. 5 from Lawrence A. Gordon. This parcel is an approximately 7½-acre tract of farm ground. The applicant acquired this parcel so as to have an on-site demonstration plot. This parcel, which was planted in winter wheat, was used to demonstrate the antique harvesting equipment. (Tr. pp. 43 & 44, Dept. Ex. No. 2-5A)

27. On July 22, 1996, the applicant acquired the parcel identified as File No. 7 from the Penfield Improvement Association, (hereinafter referred to as the "PIA"). During 1997, this parcel was improved with the PIA building. When the applicant acquired this parcel and the building thereon it was with the understanding that the local senior citizens group which met in the building twice a month and the Quilting Club which met there weekly could continue to meet in that building. In fact those two organizations continued to meet in the PIA building through October 31, 1997. In addition the building had been used as a polling place. On November 1, 1997, the PIA building burned to the ground. The applicant took the insurance money which it received and has built a replacement building on this parcel. (Tr. pp. 38, 54-56, Appl. Ex. No. 5)

28. During the 1997 Historic Farm Days, the PIA building was used to demonstrate quilting methods from the 19<sup>th</sup> century as well as to display old quilts. The area around the building on the parcel identified as File No. 7 was used during 1997 Historic Farm Days as a display area for the featured equipment. In 1997 the featured equipment was Ford tractors, cars, and trucks. (Appl. Ex. No. 3)

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992).

Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:  
(a) institutions of public charity;  
(b) beneficent and charitable organizations incorporated in any state of the United States....

This provision goes on to provide an additional requirement for historical societies to qualify for exemption as being charitable at subparagraph (f) as follows:

(f) An historical society, but only if all taxing districts within which the property is situated have adopted a resolution finding that the society is a charitable organization using the property exclusively for charitable purposes.

I conclude based on the tax bill and the resolutions submitted by the applicant in this matter that the applicant has complied with this additional requirement.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of

establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of Vermilion County Museum Society v. Department of Revenue, 273 Ill.App.3d 675 (4<sup>th</sup> Dist. 1995), the Court determined that a museum may qualify for a property tax exemption as a charitable organization.

It should be pointed out that to qualify for an exemption from taxation as a charity, the applicant must demonstrate that there is ownership by a charitable organization and use for charitable purposes. Fairview Haven v. Department of Revenue, 153 Ill. App. 3d 763 (4<sup>th</sup> Dist. 1987); and Christian Action Ministry v. Department of Local Government Affairs, 74 Ill.2d 51 (1978).

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. Since the applicant waives or reduces in cases of need both the admission fee and membership dues, I conclude that the benefits derived are for an indefinite number of persons, charity is dispensed to all who need and apply for it, and no obstacles are placed in the way of those seeking the benefits. Since the applicant is organized under the General Not For Profit Corporation Act, I conclude that the applicant has no capital, capital stock, or shareholders, and does not profit from the enterprise. The applicant's funds, I conclude are derived mainly from private and public charity and fund raisers and are held in trust for the objects and purposes expressed in its charter. Consequently, I conclude that the applicant is a charitable organization.

The applicant acquired the parcel identified as File No. 1 on March 26, 1997. This parcel, as previously stated, was used for parking during the 1997 Historic Farm Days.

Parking areas may qualify for exemption from property taxation, if they meet the criteria set forth in 35 ILCS 200/15-125, which exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

I therefore conclude that the parcel which is identified as File No. 1 qualified for exemption from real estate taxation during the period March 26, 1997 through December 31, 1997, or for 77% of the 1997 assessment year.

The applicant acquired the parcel identified as File No. 2 on July 31, 1996. The westerly portion of this parcel, as previously set forth, was used by the applicant for static displays of equipment and parking during the 1997 Historic Farm Days. This westerly portion, I conclude, qualified for exemption for the entire 1997 assessment year. The easterly portion of this parcel, East of the burned out trestle, was vacant and unused during 1997. In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be

exempt. In the case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill. App. 3d 981 (1<sup>st</sup> Dist. 1983), the Court held that property which was vacant and not used did not qualify for the statutory exemption as property used exclusively for exempt purposes regardless of the owner's intent. In the situation where an identifiable portion of a property was used for an exempt purpose while the remainder was used primarily for a nonexempt purpose or not at all, the Courts have held that the portion used for exempt purposes qualified for exemption, and the remainder did not qualify. City of Mattoon v. Graham, 386 Ill. 180 (1944). I therefore conclude that the portion of the parcel identified as File No. 2 East of the burned-out trestle, which was vacant and unused should remain on the tax rolls for the 1997 assessment year.

The applicant acquired the parcel identified as File No. 3 on June 10, 1996. As previously set forth, this parcel was used during the 1997

Historic Farm Days for the static display of antique equipment and as the site of the entertainment and Sunday morning community church service. I conclude that the parcel identified as File No. 3 was used for charitable purposes and therefore qualified for exemption during the entire 1997 assessment year.

On June 10, 1996, the applicant acquired the parcels identified as File Nos. 4 and 6. These parcels were improved with the former Penfield School. Substantial repairs were made to the school building before the 1997 Historic Farm Days so that the entire building could be used for the storage of equipment and displays. After the 1997 Historic Farm Days, additional adaptation work was done and by the date of the hearing in November 1998, the basement and first floor of the school building were being used for museum displays and static displays of equipment. Illinois Courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute

of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1<sup>st</sup> Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2<sup>nd</sup> Dist. 1987). In the case of Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1005 (5<sup>th</sup> Dist. 1990), leave to appeal denied, the Court held that property owned by a church and used for storage of church records and furniture qualified for exemption. I consequently conclude that the Penfield School building, which had been rehabilitated and which during 1997 was used for the storage of the applicant's antique farm equipment and displays qualified for exemption.

Also located on the parcel identified as File No. 4 is the bus garage. During 1997, the bus garage was used for the storage of the antique farm equipment used in farming the demonstration plot. Pursuant to Our Savior Lutheran Church v. Department of Revenue, *id.*, I conclude that the bus garage also qualified for exemption.

On March 5, 1997, the applicant acquired the parcel identified as File No. 5. This 7½-acre parcel of farm ground was used by the applicant during the 1997 Historic Farm Days as a demonstration plot where antique farm equipment which was operational could be demonstrated harvesting crops. This operational display of the antique equipment was an essential part of Historic Farm Days. I therefore conclude that the parcel identified as File No. 5 qualified for exemption as being used for charitable purposes. Consequently, I conclude that the parcel identified as File No. 5 qualified for exemption for the period March 5, 1997, through December 31, 1997, or for 83% of the 1997 assessment year.

On July 22, 1996, the applicant acquired the parcel identified as File No. 7. During 1997 Historic Farm Days the Penfield Improvement Association building was used to demonstrate 19<sup>th</sup> century quilting methods and to display old quilts. The land portion of this parcel was used during the 1997 Historic Farm Days for the display of Ford tractors, cars, and trucks. Ford tractors were the featured equipment at the 1997 Historic Farm Days. I therefore conclude that the parcel identified as File No. 7 qualified for exemption during the 1997 assessment year.

The evidence indicates that the land portion of the parcels identified as File Nos. 4 and 6 which were not occupied by buildings were rented to vendors. Illinois Courts have consistently held that the use of property to produce income is not a charitable use even if the income is used for charitable purposes. People ex rel. Baldwin v. Jessamine Withers Home, 312 Ill. 136 (1924). *See also* The Salvation Army v. Department of Revenue, 170 Ill.App.3d 336 (2<sup>nd</sup> Dist. 1988), leave to appeal denied. Where the property as a whole was used for both exempt and nonexempt purposes, it will qualify for exemption only if the exempt use is the primary use, and the nonexempt use is merely incidental. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971) and also MacMurray College v. Wright, 38 Ill.2d 272 (1967). The applicant has failed to establish that the primary use of the land not occupied by buildings on the parcels identified as File Nos. 4 and 6 was charitable. Consequently, I conclude that the land portion of the parcels identified as File Nos. 4 and 6 do not qualify for exemption.

I therefore recommend that the parcel identified as File No. 1 be exempt from real estate taxation for 77% of the 1997 assessment year, which was the period of time that the applicant owned that parcel. I also recommend that the portion of File No. 2 West of the burned out trestle be exempt for the 1997 assessment year. The portion of File No. 2 East of the burned out trestle I recommend remain on the tax rolls for the 1997 assessment year and be assessed to the applicant, the owner thereof. I recommend that the parcels identified by File Nos. 3 and 7 be exempt from real estate taxation for the 1997 assessment year. I also recommend that the parcel identified as File No. 5 be exempt from real estate taxation for 83% of the 1997 assessment year, which was the period of time that the applicant owned that parcel. I recommend that the Penfield School building and the bus garage located on the parcels identified as File Nos. 4 and 6 be exempt from taxation during the 1997 assessment year. Finally, I recommend that the land portion of the parcels identified as File Nos. 4 and 6 not occupied by buildings, remain on the tax rolls for the 1997 assessment year and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
April 13, 1999