

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

**RECEIVED**  
CLERK'S OFFICE

ADMINISTRATIVE CITATION

MAY 14 2004

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

v.

DANIEL PAULEY,

Respondent.

AC

04-78

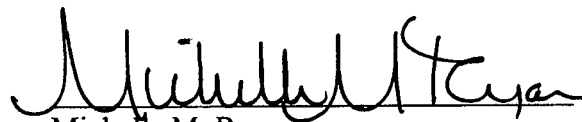
(IEPA No. 238-04-AC)

**NOTICE OF FILING**

To: Daniel Pauley  
315 N. Illinois  
Belleville, IL 62222

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,



Michelle M. Ryan  
Special Assistant Attorney General

Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

Dated: May 12, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

MAY 14 2004

STATE OF ILLINOIS  
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL  
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(IEPA No. 238-04-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2002).

FACTS

1. That Daniel Pauley ("Respondent") is the present owner of a property that has been transformed into a man-made lake located at Leibig School Road, Mascoutah, St. Clair County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Mascoutah/Pauley.

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1638095001.

3. That Respondent has owned said facility at all times pertinent hereto.

4. That on April 15, 2004, Kendall Couch and John Senjan of the Illinois Environmental Protection Agency's Collinsville Regional Office inspected the above-described facility. A copy of the inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

### VIOLATIONS

Based upon direct observations made by Kendall Couch and John Senjan during the course of the April 15, 2004 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2002).
- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in the deposition of waste in standing or flowing waters, a violation of Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2002).

### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Four Thousand Five Hundred Dollars (\$4,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 30, 2004, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution

Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2002), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2002), if Respondent fails to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondents from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

Renee Cipriano  
Renee Cipriano, Director  
Illinois Environmental Protection Agency

Date: 5/12/04

Prepared by: Susan E. Konzelmann, Legal Assistant  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY,

Complainant,

v.

DANIEL PAULEY,

Respondent.

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AC

(IEPA No. 238-04-AC)

FACILITY: Mascoutah/Pauley

SITE CODE NO.: 1638095001

COUNTY: St. Clair

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: April 15, 2004

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:

Mascoutah/Pauley

Daniel R. Pauley

Respondent.

IEPA DOCKET NO.

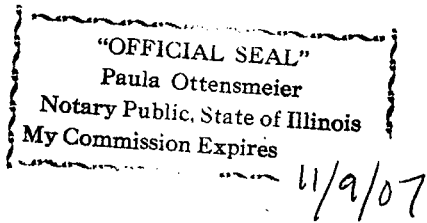
Affiant, Kendall Couch, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Bureau of Land of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On April 15, 2004, between 1:15pm and 1:40pm, Affiant conducted an inspection of the open dump in St. Clair County, Illinois, known as Mascoutah/Pauley, Illinois Environmental Protection Agency Site No. 1638095001.
3. Affiant inspected said Mascoutah/Pauley open dump by an on-site inspection which included walking the site and taking photographs.
4. As a result of the activities referred to in Paragraph 3 above, Affiant assisted in the completion of the Inspection Report form attached hereto and made a part hereof, which, to the best of the Affiant's knowledge and belief, is an accurate representation of Affiant's observation and factual conclusions with respect to said Mascoutah/Pauley open dump.

Kendall Couch  
Kendall Couch

Subscribed and Sworn to before me  
this 21st day of April 2004

Paula Ottensmeier  
Notary Public





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:

Mascoutah/Pauley

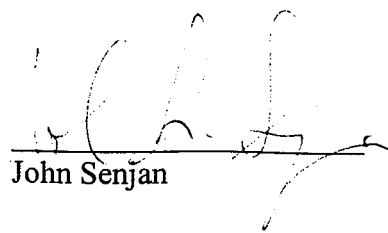
Daniel R. Pauley

Respondent.


IEPA DOCKET NO.

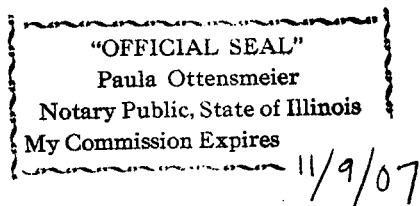
Affiant, John Senjan, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Bureau of Land of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On April 15, 2004, between 1:15pm and 1:40pm, Affiant conducted an inspection of the open dump in St. Clair County, Illinois, known as Mascoutah/Pauley, Illinois Environmental Protection Agency Site No. 1638095001.
3. Affiant inspected said Mascoutah/Pauley open dump by an on-site inspection which included walking the site and taking photographs.
4. As a result of the activities referred to in Paragraph 3 above, Affiant assisted in the completion of the Inspection Report form attached hereto and made a part hereof, which, to the best of the Affiant's knowledge and belief, is an accurate representation of Affiant's observation and factual conclusions with respect to said Mascoutah/Pauley open dump.

  
John Senjan

Subscribed and Sworn to before me  
this 21st day of April 2004

  
Notary Public



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## Open Dump Inspection Checklist

County: St. Clair      LPC#: 1638095001      Region: 6 - Collinsville  
 Location/Site Name: Mascoutah/Pauley  
 Date: 04/15/2004      Time: From 1:15pm To 1:40pm      Previous Inspection Date: 02/04/2004  
 Inspector(s): Kendall Couch      Weather: Sunny, dry, 72 degrees F.  
 No. of Photos Taken: # 8      Est. Amt. of Waste: 450 yds<sup>3</sup>      Samples Taken: Yes #      No ☒  
 Interviewed: No one present      Complaint #: N.A.

Responsible Party  
 Mailing Address(es)  
 and Phone  
 Number(s):

Pufalt-Pauley Insurance Agency Inc.  
 Attn. Daniel R. Pauley  
 315 N. Illinois  
 Belleville, IL. 62222  
 618/233-0034

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APR 29 2004

IEPA-DLPC

	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input checked="" type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input checked="" type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input checked="" type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input checked="" type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	<input checked="" type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input checked="" type="checkbox"/>
7.	21(e)	DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT	<input checked="" type="checkbox"/>
8.	21(p)	CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	
	(1)	Litter	<input checked="" type="checkbox"/>
	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input checked="" type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input checked="" type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC # 1638095001

Inspection Date: 04/01/2004

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input checked="" type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input checked="" type="checkbox"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
14.		APPARENT VIOLATION OF: ( <input type="checkbox"/> ) PCB; ( <input type="checkbox"/> ) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>



Signature of Inspector(s)

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

LPC#-1638095001-St. Clair County  
Mascoutah/Pauley  
Date of Inspection: April 15, 2004  
Prepared by: Kendall Couch  
Date: April 20, 2004

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## Narrative

### General Remarks

On April 15, 2004, John Senjan and I went to do a follow-up inspection at this site. The weather was sunny, dry, and the temperature was 72° degrees. This site is a man made lake near Mascoutah, Illinois. It is the intent of the owner, Daniel Pauley, to fill the lake and have submerged tires serve as a breeding habitat for fish. This plan is supported by the United States Department of the Interior, Fish, and Wildlife Service. The United States Department of the Interior, Fish, and Wildlife Service directed Mr. Pauley to have all the tires connected by stainless steel cable and then anchored by 3 foot augers to keep the tires in place.

### History

This site was an empty lake lined with several rows of used tires. This site was inspected on February 10, 2003. A Violation Notice (L-2003-01052) was issued on March 10, 2003 alleging violations pertaining to the open dumping of waste tires. A response to Violation Notice (L-2003-01052) was received on April 28, 2003.

A Compliance Commitment Agreement (CCA) Acceptance Letter with Modifications was sent on May 12, 2003. This CCA Acceptance Letter was returned to the Collinsville Regional Office and another CCA Acceptance Letter was sent to the business address of Mr. Pauley on June 10, 2003. The CCA Acceptance Letter modifications outlined a 90 day tire removal plan. This site was also inspected on October 31, 2003 and February 4, 2004.

After my initial inspection, Mr. Pauley presented a letter from the United States Department of the Interior, Fish, and Wildlife Service. This letter outlined a plan to use waste tires to serve as a breeding habitat for fish. This plan called for the tires to be positioned in 3 to 5 feet of water and anchored with stainless steel cable and 3 foot augers.

On July 21, 2003, I spoke to Mr. Pauley via phone. Mr. Pauley stated that he would be out of town until July 30, 2003. Mr. Pauley stated that after he returned he would contact New Heights Recovery of Dupu, Illinois to initiate a plan to remove the tires at this site.

On February 18, 2004, I spoke with Mr. Pauley via phone. Mr. Pauley stated that he had staged a trailer at this site on February 14, 2004. The trailer was to be used to facilitate the removal of the waste tires. Mr. Pauley stated that New Heights Recovery of Dupu, Illinois was contracted to dispose of his waste tires.

LPC#-1638095001-St. Clair County  
Mascoutah/Pauley  
Compliance File

On February 26, 2004, I went to this site and I observed two piles of truck tires located on the northern end of this site. There were approximately 400 tires in the large pile and approximately 200 tires in the smaller pile. To the west of these tires was a trailer with a small loader inside. Located in the front of the trailer were approximately 40 truck tires. I again observed several rows of tires lining the southern, western and eastern ends of the lakebed. These tires were approximately 10 to 15 feet above the shoreline.

During the last inspection, I observed several hundred cinder blocks on the north end of the lakebed. These cinder blocks were again observed during this visit. It appears that most of the lake has a water level of approximately one or two feet. The water appears to be deeper on the southern end. Water covers approximately 60% of the lakebed. Several pictures were taken during this visit.

On April 1, 2004, I returned to this site. The two piles of tires located on the northern end of this site were not present. The trailer observed in the February 26, 2004 visit remained. The truck tires and small loader were again observed in the trailer.

On the southern end of the lake were hundreds tires lying in the water along the edge of the lake. These tires were 95% submerged in the water. It appeared that the tires lining the lakebed, above the shoreline, had been rolled into the lake. No tires were observed above the shoreline during this inspection.

On April 2, 2004, I spoke to Mr. Pauley via phone. Mr. Pauley explained that he had drilled holes in the tires and then placed them into the lake. I told Mr. Pauley that I was concerned about the lake drying up during the summer months and causing the tires to be exposed. Mr. Pauley assured me that the lake was spring feed and the lakebed would always contain water.

I asked Mr. Pauley to submit receipts from New Heights Recovery representing the disposal of the truck tires observed in the previous inspections. Mr. Pauley stated that he would write up a letter explaining his present activities as well as future plans for this site and then fax this letter and disposal receipts to the IEPA Collinsville Regional Office. No receipts or letter have been received by the Agency as of writing this narrative.

#### Inspection

On April 15, 2004, we observed approximately 50 truck tires lying in a row near the aforementioned trailer on the northwestern end of this site. The trailer contained a loader and approximately 15 truck tires. There were also two small open trailers just to the east of the box trailer.

LPC#-1638095001-St. Clair County  
Mascoutah/Pauley  
Compliance File

We also observed a burned area approximately 100 feet to the east of the large trailer. The burned area contained partially burned wood along with what appeared to be tire wire. The burned area was 12-15 feet in diameter.

Approximately 20 tires were observed floating in the middle of the lake. We then went to the south end of the lake. There we observed hundreds of tires along the south edge of the lake. Some of the tires were entirely in the water while others were sitting just on the edge of the water. Most of the tires in the water were 95% submerged. John Senjan pulled several tires out of the lake. These tires did not have any holes drilled in them. The tires were not connected together by cable and no augers were observed as directed by the United States Department of the Interior, Fish, and Wildlife Service letter.

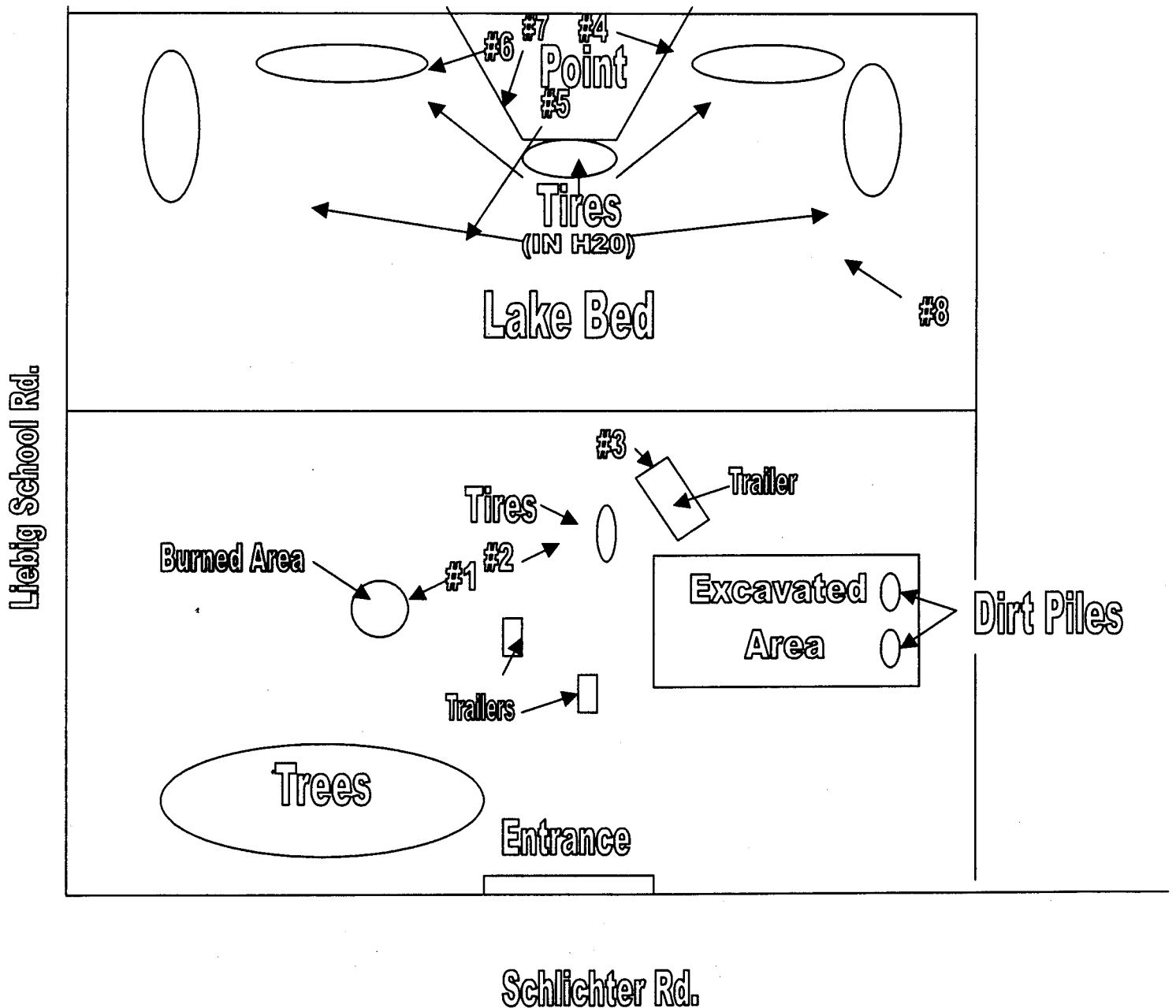
At the time of this inspection, the apparent violations found in previous inspection were again observed. During this most recent inspection, the additional violations of 9(a), 9(c), 12(a), 12(d), 21(e), 21(p)(3), 21(p)(4), and 55(a)(2) of the Illinois Environmental Protection Act will be alleged.

cc: DLPC/FOS- Collinsville Regional

State of Illinois  
Environmental Protection Agency  
Facility Diagram

Date of Inspection: April 15, 2004 Inspector: Kendall Couch  
Site Code: 1638095001 County: St. Clair  
Site Name: Pauley Time 4:00pm

Pictures# →  
North ↓

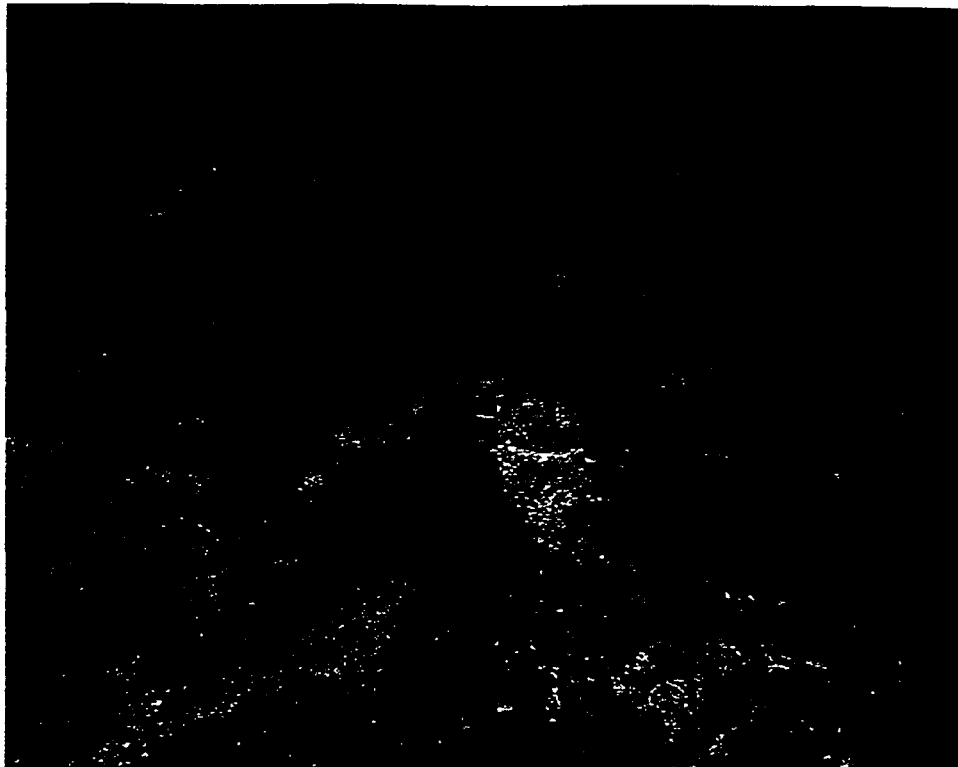




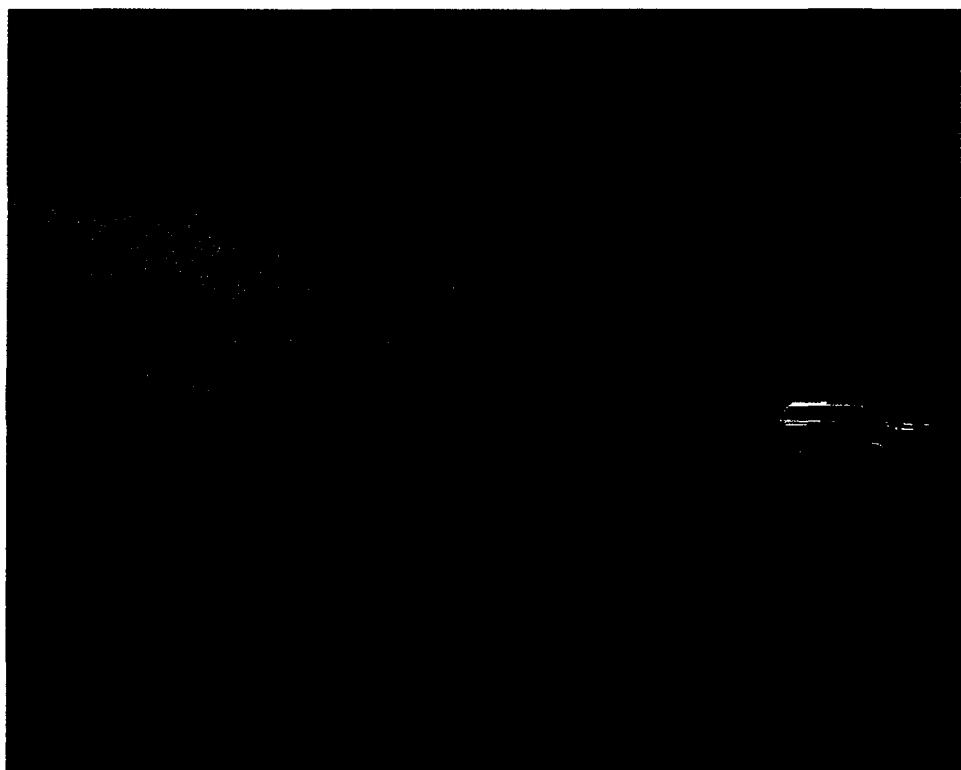
**LPC #1638095001 –St. Clair County  
Mascoutah/Pauley  
FOS File**

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
**DIRECTION:**  
**PHOTO by:** Kendall Couch  
**PHOTO FILE NAME:**  
1638095001~04152004-001  
**COMMENTS:**



**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
**DIRECTION:**  
**PHOTO by:** Kendall Couch  
**PHOTO FILE NAME:**  
1638095001~04152004-002  
**COMMENTS:**



**LPC #1638095001 –St. Clair County  
Mascoutah/Pauley  
FOS File**

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
**DIRECTION:**  
**PHOTO by:** Kendall Couch  
**PHOTO FILE NAME:**  
1638095001~04152004-003  
**COMMENTS:**



**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
**DIRECTION:**  
**PHOTO by:** Kendall Couch  
**PHOTO FILE NAME:**  
1638095001~04152004-004  
**COMMENTS:**



**LPC #1638095001 –St. Clair County  
Mascoutah/Pauley  
FOS File**

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
**DIRECTION:**  
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**PHOTO FILE NAME:**  
1638095001~04152004-005  
**COMMENTS:**



**DATE:** April 15, 2004  
**TIME:** 1:15pm-1:30pm  
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**PHOTO FILE NAME:**  
1638095001~04152004-006  
**COMMENTS:**

