

# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 – (217) 782-3397 JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOIEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

40801

RECEIVED CLERK'S OFFICE

JUL 1 6 2007

STATE OF ILLINOIS **Pollution Control Board** 

ORIGINAL

July 12, 2007

(217) 782-9817

TDD: (217) 782-9143

The Honorable Dorothy Gunn, Clerk Illinois Pollution Control Board James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601

Re:

Illinois Environmental Protection Agency v. Carol G. Prieb IEPA File No. 173-07-AC; 1818580001—Union County

Dear Clerk Gunn:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Rvan **Assistant Counsel** 

Enclosures

## INFORMATIONAL NOTICE!!!

### IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE:

This Administrative Citation refers to <a href="TWO">TWO</a> separate State of Illinois Agencies. One is the ILLINOIS POLLUTION CONTROL BOARD located at James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative Citation, you must file a <u>PETITION FOR REVIEW</u> with thirty-five (35) days of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the clerk of the Illinois Pollution Control Board by either hand delivering or mailing to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the ATTENTION: DIVISION OF LEGAL COUNSEL.

Any person other than individuals MUST appear through an attorneyat-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 III. Adm. Code 101.400(a).

# BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

#### ADMINISTRATIVE CITATION

CLERK'S OFFICE

JUL 1 6 2007

ILLINOIS ENVIRONMENTAL RIGINAL PROTECTION AGENCY, RIGINAL RIGI	STATE OF ILLINOIS Pollution Control Board
Complainant,	AC 08-01
v. )	(IEPA No. 173-07-AC)
CAROL G. PRIEB,	
Respondent.	
NOTICE OF FIL	INC

To: Carol G. Prieb

405 Barkhausen Lane Jonesboro, IL 62952

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: July 12, 2007

## BEFORE THE ILLINOIS POLLUTION CONTROL BOARD CLERK'S OFFICE

RECEIVED CLERK'S OFFICE

ADMINISTRATIVE CITATION

JUL 1 6 2007

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Complainant,

V.

CAROL G. PRIEB

STATE OF ILLINOIS Pollution Control Board

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#### 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 (2004).

#### **FACTS**

- That Carol G. Prieb ("Respondent") is the present Trustee of a facility located at 405
   Barkhausen Lane, Jonesboro, Union County, Illinois. The property is commonly known to the Illinois
   Environmental Protection Agency as Mill Creek/Prieb-Dillavou-Gaines.
- 2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1818580001.
  - That Respondent has been the Trustee of said facility at all times pertinent hereto.
- 4. That on June 12, 2007, Sheila Williams of the Illinois Environmental Protection Agency's Marion Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

#### **VIOLATIONS**

Based upon direct observations made by Sheila Williams during the course of her June 12, 2007 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) (2004).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in the deposition of general construction or demolition debris; or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2004).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), 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 <u>Three Thousand Dollars (\$3,000.00)</u>. 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 <u>August 30, 2007</u>, 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 (2004), 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) (2004), if Respondent fails to petition or elects 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 Respondent 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 (2004). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed 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.

Douglas P. Scott, Director

Illinois Environmental Protection Agency

Date: 7/12/07

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

# ORIGINAL

#### REMITTANCE FORM



JUL 1 6 2007

	NVIRONMENTAL ) ON AGENCY, )		Pollution Control E	OIS loard
Complainar	nt, )	AC 08	01	
٧.	)	(IEPA No. 1	and and a second	
CAROL G.	PRIEB )			
	)	96.		
Responden	it.			
FACILITY:	Mill Creek/Prieb-Dillavou-Gaines	SITE NO.:	1818580001	54
COUNTY:	Union	CIVIL PENALTY:	\$3,000.00	

DATE REMITTED:

DATE OF INSPECTION:

SS/FEIN NUMBER:

SIGNATURE:

#### NOTE

June 12, 2007

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.

# BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CLERK'S OFFICE

JUL 1 6 2007

ILLINOIS ENVIRONMEN	NTAL PROTECTION AGENCY	STATE OF ILLINOIS Pollution Control Board
*	Complainant,	Ac08-01
v.		iEPA DOCKET NO.
		)
	Respondent.	)

#### **AFFIDAVIT**

Affiant, Sheila Williams, being first duly sworn, voluntarily deposes and states as follows:

- Affiant is a field inspector employed by the Land Pollution Control Division of the
   Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
- 2. On June 12, 2007, between 11:35 a.m. and 12:00 p.m., Affiant conducted an inspection of a disposal site operated by Carol G. Prieb, Margaret Dillavou and Paul Gaines, located in Union County, Illinois, and known as Mill Creek/Prieb-Dillavou-Gaines by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1818580001 by the Agency.
- 3. Affiant inspected said Mill Creek/Prieb-Dillavou-Gaines site by an on-site inspection which included walking and photographing the site.

4. As a result of the material actions referred to in paragraph 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to said Mill Creek/Prieb-Dillavou-Gaines.

Subscribed and Sworn to before me

Notary Public

SRW:gs/3109l/06-20-07

RONALD E. MORSE

# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

ORIGINAL Open Dump Inspection Checklist

County: L	Jnion	III O CIA III AAAA AAA	LPC#:	18185	80001	Re	egion: 1 7 2 Marion
Location/Site Name: Mill Creek/Pri		ieb - Dillavo	u - Ga	aines	100	TATE OF ILLINOIS	
Date: 6	6/12/2007	Time: From	11:35 A.M	. To	12:00 P.M.	Previous Inspec	Horn Datentro 0/03/2006
Inspector(s):	S. Willi	ams & R. Mile	ur		Weather:	Sunny, ~85° F.	
No. of Photos	Taken: #	11 Est.	Amt. of Was	ste: 1	4 yds <sup>3</sup>	Samples Taken:	Yes # No ⊠
Interviewed:	Margar	et Dillavou			Compla	aint #: 07-042	
Latitude: 37	7.37060	Longitude:	-89.28876	Col	lection Point	Description: Dun	np Location -
(Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS -						1 P V	
Responsible Party Mailing Address(es)  Carol Prieb 405 Barkhau				Margaret D	illavou	Paul Gaines	
		usen Ln.		405 Barkha	usen Ln.	405 Barkhausen Ln.	
and Phone Number(s):		Jonesboro,	IL 62952		Jonesboro,	IL 62952	Jonesboro, IL 62952

	SECTION	DESCRIPTION	VIOL
	ILL	INOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS	
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	
4.	12(d)	CREATE A WATER POLLUTION HAZARD	
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE-DISPOSAL OPERATION:	
	(1)	Without a Permit	$\boxtimes$
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	$\boxtimes$
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	$\boxtimes$
8.	21(p)	CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH R IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	ESULTS
	(1)	Litter	
e .	(2)	Scavenging	
	(3)	Open Burning	
	(4)	Deposition of Waste in Standing or Flowing Waters	
	(5)	Proliferation of Disease Vectors	
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	

#### LPC# 1818580001

Inspection Date:

6/12/2007

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	$\boxtimes$
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	
		35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G	
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	
11.	722.111	HAZARDOUS WASTE DETERMINATION	
12.	808.121	SPECIAL WASTE DETERMINATION	
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	
		OTHER REQUIREMENTS	
14.		APPARENT VIOLATION OF: ( ) PCB; ( ) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	
15.	OTHER:		
		€	

#### Informational Notes

- 1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- 2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- 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.

## NARRATIVE INSPECTION REPORT

Date: June 12, 2007 Inspector: Sheila Williams & Rob Mileur

Site Code: 1818580001 County: Union

Site Name: Mill Creek/Prieb – Dillavou - Gaines Time: 11:35 A.M. – 12:00 P.M.

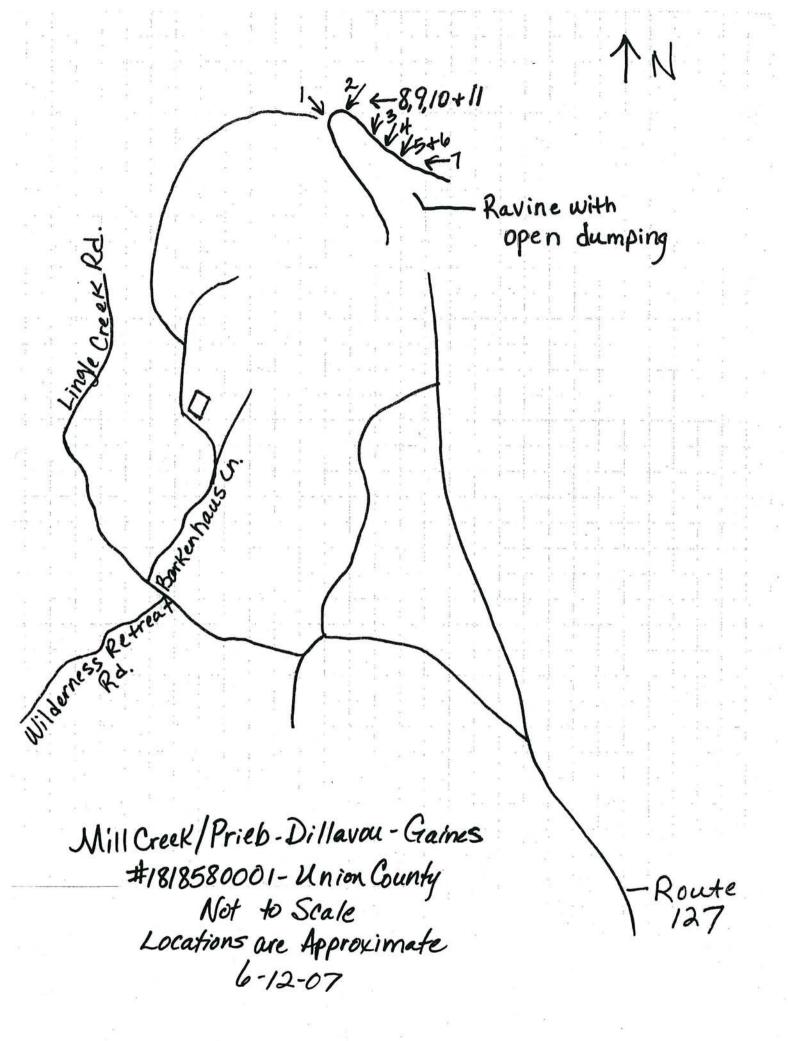
#### **GENERAL REMARKS**

On June 12, 2007 Rob Mileur & I conducted an inspection of the Mill Creek/Prieb — Dillavou - Gaines dump site. On October 3, 2006, the initial inspection revealed apparent violations pertaining to open dumping & open burning. During the first inspection, Paul Gaines (at that time referred to as Margaret Dillavou's boyfriend) said he had not been hauling tires to the site, but had been burning trash. He was told of the proper way to clean up the site. Following the Administrative Citation Warning Notices (ACWN'S) that were sent to the responsible parties, three extensions were granted at the request of Margaret Dillavou. Current records a the Union County Supervisor of Assessments Office indicate that Carol G. Prieb is still the Trustee & Margaret Dillavou is still the Guardian for the property on which this site is located.

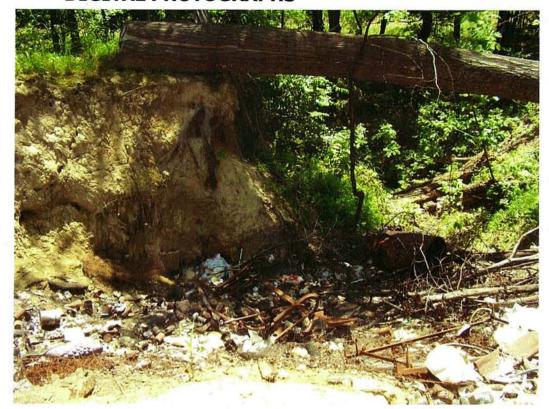
The purpose of the current inspection was to determine if compliance had been achieved. Upon arrival, I spoke with Margaret Dillavou. She said her fiancé had been occasionally been working at the site. Ms. Dillavou, also, said they have the property for sale. She said it would be alright for us to go to the sight to take a look at things.

The same area of apparent violations was observed again. This has been designated as Area A. It appeared as though open dumping & possibly open burning were ongoing in a ravine. Wastes observed included, but were not limited to, glass bottles, demolition debris, a variety of metal & plastics, ash, tire wires & general refuse. Much of the debris was charred. It was apparent that additional open dumping had occurred

since the former inspection. A metal frame that appears to have originated as a swing or glider was present that had not previously been observed. Also, two pieces of mail addressed to Margaret Dillavou at 405 Barkhausen Lane were present. One was a magazine dated February 2007 & the other was labeled as Spring & Summer 2007. Area A is estimated to be approximately 14 cubic yards (20'x12.5'x1.5') in size.



### **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:50 A.M.
Direction: southeast
Photo by: S. Williams
Exposure #: 001
Comments: area
apparently used for
open dumping & open
burning



Date: June 12, 2007
Time: 11:51 A.M.
Direction: southwest
Photo by: S. Williams
Exposure #: 002
Comments: bottles, a
variety of plastics,
demolition debris &
metal including tire
wires

File Names: 1818580001~06122007 - [Exp. #].jpg

#### **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:51 A.M.
Direction: southwest
Photo by: S. Williams
Exposure #: 003
Comments: plastics, a
garden hose,
demolition debris, bed
frame, metal fencing,
glass bottles, tire
wires & general
refuse



Date: June 12, 2007
Time: 11:51 A.M.
Direction: southwest
Photo by: S. Williams
Exposure #: 004
Comments: a variety
of metal, demolition
wood, glass bottles &
general refuse

File Names: 1818580001~06122007 - [Exp. #].jpg

LPC #1818580001 – Union County Mill Creek/Prieb – Dillavou - Gaines FOS File

# **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:51 A.M.
Direction: southwest
Photo by: S. Williams
Exposure #: 005
Comments: a large
metal frame that
appears to have
originated as a swing
or glider, broken
glass, charred
dimensional wood, a
paint can, tires wires
& general refuse



Date: June 12, 2007
Time: 11:52 A.M.
Direction: southwest
Photo by: S. Williams
Exposure #: 006
Comments: metal
fencing, charred wood
including, charred
demolition wood &
general refuse

File Names: 1818580001~06122007 - [Exp. #].jpg

### **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:53 A.M.
Direction: west
Photo by: S. Williams
Exposure #: 007
Comments: hose,
general refuse,
charred metal &
charred dimensional
lumber



Date: June 12, 2007 Time: 11:54 A.M. Direction: west Photo by: S. Williams Exposure #: 008 Comments: general

refuse

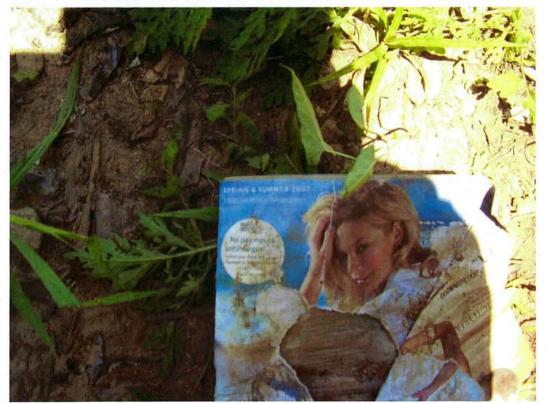
File Names: 1818580001~06122007 - [Exp. #].jpg

LPC #1818580001 – Union County Mill Creek/Prieb – Dillavou - Gaines FOS File

### **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:54 A.M.
Direction: west
Photo by: S. Williams
Exposure #: 009
Comments: February
2007 American Baby
Magazine addressed
to Margaret Dillavou
at 405 Barkhausen
Lane of Jonesboro, IL



Date: June 12, 2007
Time: 11:57 A.M.
Direction: west
Photo by: S. Williams
Exposure #: 010
Comments: Spring &
Summer 2007 Spiegel
catalog addressed to
Margaret Dillavou at
405 Barkhausen Lane
of Jonesboro, IL

File Names: 1818580001~06122007 - [Exp. #].jpg

LPC #1818580001 – Union County Mill Creek/Prieb – Dillavou - Gaines FOS File

#### **DIGITAL PHOTOGRAPHS**



Date: June 12, 2007
Time: 11:58 A.M.
Direction: west
Photo by: S. Williams
Exposure #: 011
Comments: Spring &
Summer 2007 Spiegel
catalog addressed to
Margaret Dillavou at
405 Barkhausen Lane
of Jonesboro, IL

Date:
Time:
Direction:
Photo by:
Exposure #:
Comments:

No Photo

File Names: 1818580001~06122007 - [Exp. #].jpg

# ORIGINARY OF SERVICE



JUL 1 6 2007

I hereby certify that I did on the 12th day of July 2007, send by Certified Mail Return Receipt Pollution Control Board
Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION,
AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Carol G. Prieb

405 Barkhausen Lane Jonesboro, IL 62952

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

To: Dorothy Gunn, Clerk

Pollution Control Board James R. Thompson Center

100 West Randolph Street, Suite 11-500

Chicago, Illinois 60601

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