

BELSHEIM & BRUCKERT, L.L.C.

Harold G. Belsheim
Terry I. Bruckert
John P. Long
Douglas C. Gruenke

ATTORNEYS AND COUNSELORS AT LAW

1002 East Wesley Drive
Suite 100
O'Fallon, Illinois 62269

July 1, 2011

John T. Therriault, Assistant Clerk
Pollution Control Board
100 W. Randolph Street, Suite 11-500
Chicago, IL 60601

*RE: Caseyville Sport Choice, LLC vs. Erma I. Seiber, Administratrix of the
Estate of James Seiber, Deceased, and Erma I. Seiber, Individually;
PCB 2008-030*

Dear Sir:

Enclosed is the following document that I would ask that you file in the above captioned matter:

1. Petition for Adjudication of the Retaining Lien and for Order Quashing Subpoena Duces Tecum.

Yours respectfully,


JOHN LONG

JL:clh

Encls

Cc: Carol Webb, Hearing Officer
Cc: Bryan Cave LLP
Cc: Donald Urban
Cc: Penni S. Livingston

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

In the Matter of:)
CASEYVILLE SPORT CHOICE, LLC,)
An Illinois Limited Liability Company,)
)
Complainant,)
)
vs.) PCB 2008-030
)
ERMA I. SEIBER, ADMINISTRATRIX)
OF THE ESTATE OF JAMES A. SEIBER,)
DECEASED, AND ERMA I. SEIBER,)
IN HER INDIVIDUAL CAPACITY, AND)
)
FAIRMOUNT PARK, INC., a Delaware)
Corporation,)
)
Respondents.)

**PETITION FOR ADJUDICATION OF THE RETAINING LIEN AND
FOR ORDER QUASHING SUBPOENA DUCES TECUM**

Comes now the petitioner, Belsheim & Bruckert, L.L.C., by its attorney, John Long, and petitions the Illinois Pollution Control Board to adjudicate its retaining lien with respect to the documents, photographs, and other things in its possession by reason of its legal work on various matters for the complainant, Caseyville Sport Choice, LLC, an Illinois limited liability company, and to quash the subpoena duces tecum served by the complainant on Harold G. Belsheim and Belsheim & Bruckert, L.L.C. In support of its petition, the petitioner states the following:

1. The petitioner, Belsheim & Bruckert, L.L.C., rendered legal advice and provided legal representation to the complainant, Caseyville Sport Choice, LLC, with respect to its efforts to develop a subdivision in the area of Caseyville, Illinois, over a period of more than six years, beginning approximately February, 2003, and ending on or about December 14, 2009.

2. While the petitioner rendered legal advice and provided legal representation to the complainant, the petitioner generated, developed, and otherwise accumulated a large amount of legal documents, photographs, and other things in connection with rendering that legal advice and providing that legal representation: namely, sixteen (16) large banker boxes and seven (7) smaller boxes filled with legal documents, photographs, and other things.

3. When the petitioner ceased to render legal advice and to provide legal representation to the complainant, the complainant owed the petitioner, and was in arrears in the payment of, a substantial amount of attorney's fees, both for the petitioner's representation of the complainant in the case of *Caseyville Sport Choice, LLC v. Erma I. Seiber, et al.*, PCB 2008-030, and for handling other matters.

4. The petitioner withdrew from representing the complainant in this case and ceased to represent the complainant in any other matter after the complainant had repeatedly ignored the petitioner's reasonable requests for payment of its fees.

5. As of July 1, 2011, the complainant owes the petitioner the amount of \$56,592.77 for the petitioner's legal representation of the complainant in the case of *Caseyville Sport Choice, LLC v. Erma I. Seiber, et al.*, PCB 2008-030, and \$469,487.86 for the petitioner's legal advice to, and legal representation of, the complainant in other matters: that is, a total of \$526,080.63.

6. On June 16, 2011, the complainant caused the Illinois Pollution Control Board to issue a subpoena duces tecum to Harold G. Belsheim and Belsheim & Bruckert, L.L.C., which required Harold G. Belsheim to attend and to give testimony at a deposition in the case of *Caseyville Sport Choice, LLC v. Erma I. Seiber, et al.*, PCB 2008-030, at 10:00 a.m. on Wednesday, July 6, 2011, at the office of Bryan Cave, LLP's office located at 112 North Main in

Edwardsville, Illinois 62025. *See* a copy of the subpoena duces tecum attached hereto as Exhibit A.

7. The subpoena duces tecum ordered Harold G. Belsheim and Belsheim & Bruckert, L.L.C., to bring to the deposition “documents relevant to the matter under consideration and designated herein as set forth in Attachment A,” which Attachment A essentially requested the production of all of the files that the petitioner retains in its possession concerning its legal advice to, and legal representation of Caseyville Sport Choice, LLC.

8. The complainant caused the subpoena duces tecum to be served on Harold G. Belsheim and Belsheim & Bruckert, L.L.C. on June 16, 2011.

9. The petitioner, Belsheim & Bruckert, L.L.C., asserts a retaining lien – on all of the legal documents, photographs, and other things that it developed, generated, and otherwise accumulated in the course of its rendering legal advice, and providing legal representation, to Caseyville Sport Choice, LLC – as security for the complainant’s payment of the unpaid fees which it owes to the petitioner. *See Twin Sewer & Water, Inc. v. Midwest Bank & Trust Company*, 308 Ill.App.3d 662, 720 NE 2d 636, 242 Ill.Dec. 15 (1st Dist. 1999).

10. Because the complainant, by serving the subpoena duces tecum on Harold G. Belsheim and the petitioner, has sought to compel the petitioner to produce the complainant’s files that the petitioner retains in its possession, the Illinois Pollution Control Board has subject matter jurisdiction to adjudicate the petitioner’s retaining lien with respect to those files. *See Twin Sewer & Water, Inc. v. Midwest Bank & Trust Company*, 308 Ill.App.3d 662, 720 NE 2d 636, 242 Ill.Dec. 15 (1st Dist. 1999).

11 The petitioner should *not* be required to surrender those files to the complainant until the complainant has either paid in full the unpaid fees or posted adequate security for such

payment. *See Twin Sewer & Water, Inc. v. Midwest Bank & Trust Company*, 308 Ill.App.3d 662, 720 NE 2d 636, 242 Ill.Dec. 15 (1st Dist. 1999).

12 The subpoena duces tecum which the complainant caused the Illinois Pollution Control Board to issue, and which the complainant caused to be served on Harold G. Belsheim and the petitioner, on June 16, 2011, should be quashed until the Illinois Pollution Control Board has adjudicated the petitioner's retaining lien and the complainant has either paid in full the amount of the unpaid fees or posted adequate security for the payment of the unpaid fees.

WHEREFORE, the petitioner, Belsheim & Bruckert, L.L.C., prays that the Illinois Pollution Control Board will enter an order which accomplishes the following:

A. Sets a hearing for the petitioner's proof of the amount of the unpaid fees which the complainant, Caseyville Sport Choice, LLC, owes to it;

B. Adjudicates the amount of the petitioner's retaining lien as being \$526,080.63 as of July 1, 2011, with that total thereafter daily increasing with the addition of an appropriate amount of interest;

C. Orders that – as a prerequisite to the petitioner's having to produce or disclose *any* of the complainant's files which the petitioner retains in its possession – the complainant must either (1) pay in full to the petitioner the amount of the petitioner's adjudicated retaining lien (including all interest added thereto after July 1, 2011), or (2) post adequate security for its payment in full of the adjudicated amount of the retaining lien (including all interest added thereto after July 1, 2011); and

D. Quashes the complainant's subpoena duces tecum to Harold G. Belsheim and the petitioner until the complainant either pays in full, or posts adequate security for payment in full, of the adjudicated amount of the petitioner's retaining lien.

BELSHEIM & BRUCKERT, L.L.C.

By John Long
John Long #1687832
Belsheim & Bruckert, L.L.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, Illinois 62269
618-624-4221/618-624-1812 Fax

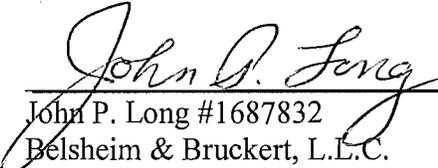
CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served a copy of the foregoing document by depositing the copy of the document in the United States mail at the post office in O'Fallon, Illinois, on July 1, 2011, enclosed in an envelope, with first-class postage thereon fully prepaid, plainly addressed to:

Bryan Cave LLP
112 N. Main
Edwardsville, IL 62025

Donald Urban
Sprague and Urban
26 E. Washington Street
Belleville, IL 62220

Penni S. Livingston
Livingston Law Firm
5701 Perrin Road
Fairview Heights, IL 62208



John P. Long #1687832
Belsheim & Bruckert, L.L.C.
1002 E. Wesley Drive, Suite 100
O'Fallon, Illinois 62269
618-624-4221/618-624-1812 Fax

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

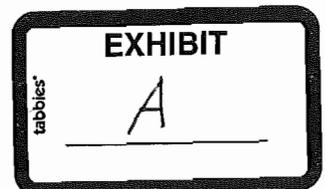
In the Matter of:)	
)	
CASEYVILLE SPORT CHOICE, LLC,)	
An Illinois Limited Liability Company,)	
)	
Complainant,)	
)	
v.)	PCB 2008-030
)	
ERMA I. SEIBER, Administratrix of the)	
Estate of James A. Seiber, Deceased, and)	
ERMA I. SEIBER, in Her Individual)	
Capacity, and)	
)	
FAIRMOUNT PARK, INC., a Delaware)	
Corporation,)	
)	
Respondents.)	

SUBPOENA DUCES TECUM

TO: Harold G. Belsheim
Belsheim & Bruckert, L.L.C.
1002 E. Wesley Dr., Suite 100
O'Fallon, IL 62269
Telephone: 618.624.4221
Fax: 618.624.1812

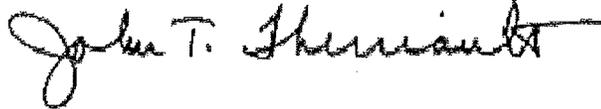
Pursuant to Section 5(e) of the Environmental Protection Act (415 ILCS 5/5(e) (2006)) and 35 Ill. Adm. Code 101, Subpart F, on behalf of Complainant E.R. 1, LLC, assignee of Caseyville Sport Choice, LLC, you are ordered to attend and give testimony at the hearing/deposition in the above-captioned matter at 10:00 a.m. on Wednesday, July 6, 2011, at Bryan Cave LLP's office located at 112 N. Main in Edwardsville, Illinois, 62025.

You are also ordered to bring with you documents relevant to the matter under consideration and designated herein as set forth in Attachment A.



Failure to comply with this subpoena will subject you to sanctions under 35 Ill. Adm. Code 101.622(g) and 101.802.

ENTER:



John T. Therriault, Assistant Clerk
Pollution Control Board

Date: June 16, 2011

I served this subpoena duces tecum by handing a copy to _____
_____ on _____, 20____.

Subscribed and sworn to before me this _____ day of _____,
20____.

Notary Public

ATTACHMENT A

I. DEFINITIONS

1. "You," or "Your," or "Belsheim & Bruckert, L.L.C." shall mean the law firm of Belsheim & Bruckert, L.L.C., Harold G. Belsheim individually, as well as your agents, employees and any other individuals or entities associated or affiliated with you or purporting to act on your behalf.

2. The word "document" as used herein shall be understood to mean all written, graphic, audio, or otherwise recorded matter, however produced or reproduced, in the actual or constructive possession, custody, care or control of you, your agents or any of them, including but not limited to originals and all copies of correspondence, tapes, disks, notes, photographs, sound recordings, non-privileged memoranda of all types, pleadings, exhibits, and any papers or recordings similar thereto, whether made or received by you.

3. The singular of any word used herein shall be deemed to include the plural of such word and the plural shall include the singular.

4. The term "person" shall mean an individual, corporation, proprietorship, partnership, sole partnership, union, federation, association and any other kind of entity.

5. The terms "Complaint" or "action" shall mean the matter pending before the Illinois Pollution Control Board bearing case number 2008-030.

II. INSTRUCTIONS

With respect to each of the document requests set forth herein, you shall identify and/or produce all documents which are known to you or which can be located or discovered by you through diligent effort on the part of you, your partners, associates, employees or representatives, including but not limited to all documents which are in the possession of you or your representatives or accessible to you or your representatives.

Destroyed Documents

If any documents requested herein or fairly comprised within the scope of the following requests have been lost or destroyed, you shall provide in lieu of a true and correct copy thereof a list of such documents so lost or destroyed together with the following information: (a) the date of origin, (b) a brief description of such document; (c) the author of the document; (d) the date upon which the document was lost or destroyed; and (e) a brief statement of the manner in which the document was lost or destroyed.

Objections to Production

In the event that any objection is made to the production of any document fairly comprised within the scope of the following requests, you shall furnish in lieu of the production of such document a list of each document withheld from production together with the following

information: (a) the reason for withholding production; (b) a statement of the facts constituting the basis for your withholding the document from production; and (c) a brief description of the documents withheld, including (i) the date upon which the document was originated, (ii) the identity of its author or preparer, (iii) the identity of each person who was a recipient of the document, (iv) the specific request which encompasses the document, (v) a brief description of the subject matter of the document, and (vi) the identity of all persons who have personal knowledge of the subject matter.

Privileged Documents

To the extent you withhold documents based upon a claim of privilege, please provide a detailed privilege log, including the date of the document, the author, the recipient(s) and a brief description of the subject matter.

III. DOCUMENT REQUESTS

1. All pleadings, filings, discovery requests, discovery responses and deposition transcripts filed, served or produced in this action.
2. All documents produced by any party in response to any discovery request (*e.g.*, interrogatory, request for production) in this action.
3. All documents relating to the circumstances and violations alleged in the Complaint.
4. All documents provided to you by Caseyville Sport Choice, LLC which may relate to this action.
5. All evidence developed to support or refute claims or defenses made in this action.
6. All documents identified and described in a twenty-five page index of documents authored by John Long entitled "Table of Contents of Documents Produced in Seiber's Response to Request for Production" (herein "Document Index"). The Document Index is attached to this Subpoena Duces Tecum.
7. All documents, invoices, and correspondence relating to any Phase I or Phase II Environmental Site Assessments conducted by any environmental consultant (including but not limited to Geotechnology, Inc. and Burns & McDonnell, Inc.) at the property sold by James A. Seiber and Erma I. Seiber to Caseyville Sport Choice, LLC on or around June 23, 2004, and located in Caseyville, Illinois, in St. Clair County and described in Exhibit A to the Complaint in this matter.

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
--------------------	------	-------	-------	-----------

Caseyville Sport Choice, LLC,
An Illinois Limited Liability Company

vs.

Erma I. Seiber, Administratrix of the Estate of James A. Seiber, Deceased, and
Erma I. Seiber, in her individual capacity

TABLE OF CONTENTS OF DOCUMENTS PRODUCED IN SEIBER'S RESPONSE TO REQUEST FOR PRODUCTION

Pretrial Exhibit #	Date	Place	Event	Documents
1	9/22/80	Collinsville, IL	Letter from Kenneth G. Mensing, Southern Region Manager, Land Field Operations Section of the IEPA, to Bill Chessor d/b/a Watts Excavating and Land Development of Collinsville, Illinois, advising him that he was improperly accepting, and dumping on his property, waste from Fairmount Park Racetrack	Letter dated June 1, 1981, from Ken Mensing, IEPA, to Bill Chessor (referring to letter of September 22, 1980). Letters found as the first page in Appendix B, FOIA documents of the Comprehensive Site Investigation, Remedial Objectives, Remedial Action Plan, and Remedial Action Completion Report (hereinafter referred to as the <i>New Horizon Environmental Report</i>)
2	6/1/81		Letter from Ken Mensing of IEPA to Bill Chessor d/b/a Watts Excavating and Land Development of Collinsville, Illinois, stating "Based on the above, we hereby direct you to cease this illegal operation. ... This letter will also serve to inform the Fairmount Park Racetrack that they have a responsibility to ensure that their wastes are disposed of at an Illinois Environmental Protection Agency Permitted Landfill."	Letter dated June 1, 1981, from Ken Mensing, IEPA, found at first page in Appendix B, FOIA documents, to <i>New Horizon Environmental Report</i>
3	6/5/81		"[M]r. Seiber came into this office today... Mr. Seiber stated that he has a 5-year contract with Fairmount Racetrack and that he hauls 5 loads per day, 7 days per week... Mr. Seiber gave me the name of his engineer, Frank Morsky (618-632-8423), who is to prepare a permit application."	Memorandum by P.M. McCarthy to IEPA in Incident #16302506, dated 6/5/81, third page of Appendix B, FOIA documents, to <i>New Horizon Environmental Report</i>
4	6/10/81		Letter from Fairmount Park to Seiber Sanitation & Hauling Company, dated June 8, 1981 (copy received	Letter dated June 8, 1981, from Roger D. Smith, Vice President/General Manager of Fairmount Park,

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			by IEPA on June 10, 1981) advising Mr. Seiber that "the dumping of all materials removed by your company from this property will be done only in accordance with local, state and federal regulations. Should the described violations continue or future violations occur, then this office will be forced to terminate our agreement."	addressed to Seiber Sanitation & Hauling Company; found at page 2 of Appendix B, FOIA documents, to <i>New Horizon Environmental Report</i>
5	8/10/81		Investigator observed three trucks marked "Seiber Sanitation & Hauling" entering the property (while excavating property). A witness (whose name was blotted out) called and said "They have been dumping at least 6 weeks - average 10 loads per day - 6 days a week, dumping from 10:00 a.m. to 11:00 p.m.	Investigation Findings dated 8/10/81 by P.M. McCarthy, found at page 6 of Appendix B, FOIA documents, to <i>New Horizon Environmental Report</i>
6	8/17/81		(received by IEPA 8/24/81) "Meeting and inspection - present Jim Seiber, Ken Mensing, and myself. Mr. Seiber claims that he is forced to dump here because of stiff competition. He stated that only "some" of his general waste is being disposed of here.... Mr. Seiber has agreed to stop accepting any general waste - will, as of today, accept only manure waste. He will try to secure EPA permit section permission to allow storage, as he also plans to install manure and straw processor facility."	<i>New Horizon Environmental Report</i> , Appendix A 3 photographs were included.
7	8/21/81		"An investigation of an alleged violation of the Environmental Protection Act involving your property located within the city limits of Caseyville, off Hollywood Heights Road was made on August 14 and 17, 1981, by P.M. McCarthy on August 14, 1981, and by P.M. McCarthy and myself on August 17, 1981, representing this Agency. It was observed that you have been accepting general refuse and straw-manure waste for disposal at this non-permitted site. It is our understanding however, that as of August 18, 1981, only the straw-manure material will be brought to your site."	Letter dated August 21, 1981, from Kenneth G. Mensing of IEPA to James A. Seiber. Found in <i>New Horizon Environmental Report</i> , Appendix B

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
8	8/24/81		"Inspected this new non-permitted operation w/Mr. Don Radentz of St. Clair County Land Development – we first met w/Mr. Gordon Wilson, Equipment Operator... he stated that this is Mr. Jim Seiber's equipment, land, and operation – he said he has been working here 2-3 weeks, 6-7 days per week, a packer truck with the name of Seiber Sanitation was dumping while we talked w/Mr. Wilson – the waste consisted primarily of general waste – also observed... with straw manure."	IEPA inter-office correspondence found in <i>New Horizon Environmental Report</i> , Appendix B
9	10/14/81		"Defendant shall immediately and forever, subject to other provisions of this stipulation, cease and desist from dumping and/or storing of horse manure, refuse, trash, and/or". <i>set remaining page</i> Paragraph 8 indicates that the Village of Caseyville had brought an ordinance violation prosecution against Seiber for allegedly maintaining a public nuisance.	Stipulation in the case of Village of Caseyville, Plaintiff vs. James Seiber, Defendant, and State of Illinois, Intervener, No. 81-CH-223 in the Circuit Court of St. Clair County, Illinois
10	2/24/83		Wendell Chessor and Pamela J. Chessor convey land (Parcel #03-09-0-100-001) to James A. Seiber and Erma L. Seiber	Deed recorded in the St. Clair County Recorder's Office at Book 2540 Page 2181, on March 30, 1983
11	5/8/85		Inspection of Seiber's land pursuant to an <u>Administrative Search Warrant</u> issued by the Circuit Court of St. Clair County, obtained with the assistance of the St. Clair County State's Attorney's Office. On May 8, 1985, at 3:00 p.m., the following people entered upon the subject property: Mike Mitchell, St. Clair County Land Development Department; John Edmonds, Illinois Attorney General's Office; Dan Struense, Caseyville Zoning Administrator; Jack Kloess, Assistant State's Attorney and myself (Ken Mensing)... We located the complained of horse manure dumping herein, I proceeded to conduct my investigation. The material dumped on the ground consisted mainly of horse manure and straw, with	Memorandum to "Division File" of IEPA, by Ken Mensing, dated May 14, 1985. Found in <i>New Horizon Environmental Report</i> , Appendix B

Pretrial Exhibit #	Date	Place	Event	Documents
			<p>general refuse items such as cans, bottles, paper, plastic, etc. intermixed with the manure. The dumping and filling had occurred along a steep slope. ... The inspection made it readily apparent that the material being placed on the ground was being placed there for the purpose of disposal and not for fertilization, beneficial use or storage. There was a large amount of material, which was quite deep, not being incorporated into the soil, intermixed with general refuse materials and located in an area not conducive to other than disposal purposes. (James A. Seiber arrived.) A check of agency records and files reveals in fact that an agency permit has not been granted to Mr. Seiber for any waste management activity. Mr. Seiber stated that he has been dumping at this location for about 6 months. He further stated that he dumps about 6 truckloads per day, 7 days per week. This equates to about 1,080 truckloads. Each truck holds about 25 compacted cubic yards, which approximates a total waste volume of 27,000 cubic yards of waste material. ... I informed Mr. Seiber that he should cease dumping immediately and not resume until such time as he obtains a valid permit. He said that he would not stop dumping and reiterated that he felt that he was not harming anything or anybody."</p>	
12	5/9/85		<p>Letter from Kenneth G. Mensing, Regional Manager of Division of Land Pollution Control for Illinois EPA, to Jack Kloess of the State's Attorney's Office of St. Clair County: "Pursuant to our discussions and my site inspection of Mr. Seiber's property on May 8, 1985, I feel that the following violations of the Illinois Environmental Protection Act were present and can be substantiated: (<i>Violations of Section 21(a), 21(d) and 21(e) of the Illinois EP Act.</i>)"</p>	<p>Letter dated May 9, 1985, from Kenneth G. Mensing to Jack Kloess of the St. Clair County State's Attorney's Office, found in <i>New Horizon Environmental Report</i>, Appendix B</p>

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
13	1/8/90		<p>"This inspection was conducted pursuant to a request from the St. Clair County State's Attorney's Office. There has been a pending lawsuit being handled by their office for about 4 ½ years. I called Mr. Seiber during the morning of Jan. 8 and requested that he accompany me on a joint inspection of his horse manure disposal area. An appointment was set for 3:30 p.m. on Jan. 8, 1990. At 3:30 Jeff and I met Mr. Seiber at the entrance to his property and then drove to the disposal area. Mr. Seiber stated that he has been filling in the ravine where he is presently dumping for about 4 years. This is a different fill area than the one observed on May 8, 1985. The majority of the present ravine has been filled. On average, it is approximately 200 feet wide by 400 feet long. The average depth of fill is not known. Approximately a fourth (1/4) of the total fill area contains straw, manure, and other refuse items on the surface. ... The waste material is being utilized as a material to fill in the ravine. Photo #10 depicts the uppermost portion of the fill area and shows a vertical fill face of about 12 feet – 15 feet. ... A significant amount of paper & plastic was observed scattered throughout the active area. This type of refuse is being routinely disposed of along with the manure & straw. This site is an unpermitted refuse disposal site. Mr. Seiber said that his present contact with Fairmount Racetrack ends in March. He was not sure what he would do. He said that he would like to move to Kentucky and turn this operation over to his son."</p>	<p>Narrative Evaluation Document for Site Code 1630250006 on January 8, 1990. Found in the <i>New Horizon Environmental Report</i>, Appendix B, accompanied by 11 photographs</p>
14	10/16/91		<p>"This inspection was arranged and scheduled on Oct. 10, 1991, between IEPA, State's Attorney's Office, Mr. Seiber, and Mr. Seiber's attorney. Besides myself, Dale Brockamp, an agricultural engineer in the Marion office, conducted the investigation. We</p>	<p>Narrative Evaluation Document for Site Code 1630250006, found in the <i>New Horizon Environmental Report</i>, Appendix B. <i>See also</i> a sketch of the fill area and 12 photographs attached.</p>

Pretrial Exhibit #	Date	Place	Event	Documents
			<p>met James Seiber, Sr. at the site at 11:00 a.m. The active fill area continues to be the same ravine location where filling operations were observed on the Jan. 8, 1990, inspection. This area is approximately 200' wide by 400' long. The inspection revealed that about two-thirds of the fill area has recently been covered with dirt obtained on site. During the inspection, dirt was continuing to be applied over the horse manure waste. A dozer, a scraper, and a rubber tire end loader were in operation during the inspection. This ravine fill area has been in operation for about 5 ½ years. The average depth of the fill is not known, however, Mr. Seiber stated that the ravine was originally quite deep. He also informed us that an average of 6 packer trucks of manure per day are brought to the site. The site accepts this material 7 days per week at the lower end of the fill area closest to the creek. ... Items of general refuse were observed to be intermixed with the manure and straw similar to conditions observed on Jan. 8, 1990. Those refuse items included paper, plastic, metal, glass, wood, a couple of tires, etc. Two individuals were observed collecting the general refuse from the fill area during the inspection and placing it into the bucket of a rubber tire end loader. Mr. Seiber agreed that accepting the general refuse was a bad practice that should be discontinued."</p>	<p style="text-align: right;">Ag 10/16/91</p>
15	10/16/91		<p>"Approximately 300 acres of hilly ground is owned by Mr. James Seiber of Collinsville. ... Mr. Seiber owns a hauling and excavation company in addition to the 300 acres of ground. For the last 10 years (approximate), he has had a contract with the Fairmount Park Racetrack to haul away horse manure and other waste. Most of the horse manure (betting waste) is hauled by Mr. Seiber by garbage truck to his property south of Collinsville. Here it is deposited on</p>	<p>Field Notes dated October 16, 1991, concerning Initial Investigation of Seiber landfill. Found in <i>New Horizon Environmental Report</i>, Appendix B. 3 photographs are attached.</p>

Pretrial Exhibit #	Date	Place	Event	Documents
--------------------	------	-------	-------	-----------

			<p>the ground and is used as fill in one of the large gulleys. Mr. Seiber said that this involves 6 truckloads per day, 7 days per week, and 50 weeks a year. ... Photograph #2 (see attached), shows the large pile of horse manure which the trucks have deposited on the ground. This particular pile was about 20 feet tall. Ken said that he has seen even larger piles on previous investigations. ... While inspecting the horse manure, we found many foreign items such as plastic jugs, soda bottles and cans, wood, miscellaneous pieces of metal, etc. ... mixed in with the betting waste. ... Upon the conclusion of our foot tour of the site, we had a chance to speak with Mr. Seiber. ... Ken mentioned that there was a lot of miscellaneous debris mixed with the betting waste and that this would definitely have to be stopped. Mr. Seiber agreed and said that his employees and the racetrack officials would have to develop a way to separate the horse manure from the other domicile waste. ... Conclusion: The horse manure/betting wastes do not pose a serious threat to the surrounding environment. However, they are not being disposed of in an acceptable manner and could, given the right conditions or over a long period of time, cause ground water and surface water contamination. Mr. Seiber appears to be operating a simple landfill. ... Over a period of time, I suspect one of two things will happen. One is that the soil layer on top of the manure will remain intact. This will allow the nitrogen content of the manure to be released and migrate down to the water table and contaminate the ground water. The other scenario is that the earthen layer on top of the betting wastes will erode away, as has the natural soil, allowing the humus material underneath to easily erode away also. This will cause an increase in surface water pollution in the receiving</p>	
--	--	--	--	--

Pretrial Exhibit #	Date	Place	Event	Documents
			streams. ... Unless Mr. Seiber begins to utilize the wastes for its nutrient value at agronomic rates, this facility does not meet the criteria by which livestock waste handling facilities are defined. Therefore, it does not fall under the jurisdiction of Subtitle E: Agriculture Related Pollution Regulations.”	
16	6/28/93		The Court recited that “The Defendant having been found in violation of the Environmental Protection Act as previously determined by this Court; ...” the Court issued a permanent injunction against the defendant James A. Seiber to prevent him from continuing “to improperly dispose of horse manure and general refuse and to specifically set forth the appropriate measures to abate the nuisance and stop the violations of the Environmental Protection Act.” The last paragraph of the permanent injunction section of the Order stated, “All refuse and trash (all waste other than horse manure and straw) must be taken to a permitted sanitary landfill. The Defendant may dispose of this waste directly at a landfill or through a pickup surface but all garbage and waste other than horse manure and straw must be disposed of at a permitted landfill.” The Court ordered the defendant James A. Seiber to pay a civil penalty in the amount of \$5,000 to the Treasurer of St. Clair County and designated to the Environmental Safety Fund #7864. The Order stated that the civil penalty was imposed, in accordance with the Section 33(c) and Section 42(h) Factors found in the Environmental Protection Act as demonstrated at the hearing.	Order entered in the case of People vs. James A. Seiber, No. 85-CH-216 in the Circuit Court St. Clair County, Illinois, found in <i>New Horizon Environmental Report</i> , Appendix B.
17	12/29/98		Geotechnology, Inc. completed a Phase I Environmental Site Assessment report that included some of the properties formerly owned by James Seiber.	<i>New Horizon Environmental Report</i> , Section Two – Background, subsection 2.3, page 4
18	12/29/98		“In general accordance with our proposal number P7263.00.8520 of December 2, 1998, Geotechnology,	Transmittal letter addressed to Mark Everett of Burns & McDonnell, Inc., Eagle Center #4, O’Fallon, IL 62269.

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			Inc. has performed a Phase I Environmental Site Assessment (ESA) of the subject site. The purpose of this Phase I Environmental Site Assessment was to provide a professional opinion, based upon the limited Scope of Services given below, as to the potential for contamination to exist which may require remedial action. ... A Phase II Assessment is recommended for this site to further evaluate several areas of suspect contamination."	Found at Appendix A, "copy of cover letter," attached to <i>Phase I Environmental Assessment, Celf Trust Development</i>
19	12/29/98		"NOTICE: This report is an instrument of service prepared by Geotechnology, Inc. for the exclusive use of Burns & McDonnell. ... No party other than Burns & McDonnell is permitted by Geotechnology, Inc. to rely on this instrument of Geotechnology, Inc.'s service."	<i>Phase I Environmental Assessment, Celf Trust Development, Illinois Highways 159 to 157 South of S. Morrison Street, Caseyville, Illinois.</i> Report No. 0486901.8520. Prepared by Geotechnology, Inc. of Collinsville, Illinois, for Burns & McDonnell, Inc. of O'Fallon, Illinois
20	12/29/98		"Section 3.5 <u>Illinois Environmental Protection Agency</u> . Ken Mensing of the Illinois Environmental Protection Agency (IEPA) was contacted on December 23, 1998, concerning potential hazardous materials incidents and/or dumping activities which may have occurred on the subject site. Mr. Mensing stated that during the time frame of the mid to late 1980's to approximately 1990 he had dealings with the landowner, Mr. Siebers. Mr. Mensing stated that a large quantity of horse manure and general refuse from a local horse race track was buried on part of Mr. Siebers' property. Based on IEPA field observation notes, Mr. Mensing stated that the area of concern appeared to be about 400 feet long by 200 feet wide. The depth of the fill material is unknown. Mr. Mensing indicated on an aerial map that the location of the fill activities generally occurred in the vicinity of Site Reconnaissance Item #12 (See Section 5.0, #12)."	Found at page 7 of Geotechnology's <i>Phase I Environmental Assessment, Celf Trust Development, Illinois Highways 159 to 157 South of S. Morrison Street, Caseyville, Illinois.</i> Report No. 0486901.8520
21	12/29/98		"Site Reconnaissance Item 12 – This area appears to	Found at page 12 of Geotechnology's <i>Phase I</i>

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			contain leachates and materials, which indicate that past disposal practices may have occurred (refer to Section 3.5). Based on conversations with IEPA-personnel, it is recommended to dig test pits in the Item 12 area and another other suspect area northwest of Item 12 in an attempt to evaluate the extent of the fill and types of materials which may be present. Samples should be collected to evaluate if the materials encountered exceed IEPA guidelines.”	<i>Environmental Assessment, Celf Trust Development, Illinois Highways 159 to 157 South of S. Morrison Street, Caseyville, Illinois.</i> Report No. 0486901.8520
22	5/20/04	Elkton, KY	James A. Seiber and Erma I. Seiber sign the real estate sales contract.	<i>Real Estate Sales Contract</i> for sale of 9 parcels of land from Seiber to CSC for \$1.46 million.
23				
24				
25	6/23/04		Michael Egan, President of Caseyville Sport Choice, LLC, signs the real estate sales contract.	<i>Real Estate Sales Contract</i> for sale of 9 parcels of land from Seiber to CSC for \$1.46 million.
26	9/8/04		Geotechnology, Inc.’s updated Phase I Environmental Site Assessment report that included some of the properties formerly owned by James Seiber.	<i>New Horizon Environmental Report, Section Two – Background, subsection 2.3, page 4</i>
27	9/8/04		“This Phase I ESA has revealed evidence of recognized environmental conditions (RECs) at the subject property. We urge you to read the entire report and to contact the undersigned with any questions or concerns you may have about it.”	Transmittal letter by Robert E. Monnig, Staff Engineer of Geotechnology, Inc., to Don Ferris of Burns & McDonnell, O’Fallon, Illinois.

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
28	9/8/04		<p><u>"8.0 FINDINGS AND CONCLUSIONS</u></p> <p>This Phase I ESA has revealed evidence of the following recognized environmental condition (REC) at the subject property: ... Based on observations from the 1998 site reconnaissance, the area near Site Reconnaissance Item 12 appears to contain leachate and materials that may indicate that disposal of materials may have occurred in the area. If desired, excavation of test pits and/or environmental sampling may be conducted to evaluate the extent of and to characterize the suspected fill or materials."</p>	<p>Found at pages 12 & 13 of <i>Phase I Environmental Site Assessment Update, Forest Lake Development, St. Clair County, Illinois</i> Report No. 0486904.45TA</p> <p>See Pretrial Exhibit 95</p>
29	12/16/04		<p>Closing of sale of land under the <i>Real Estate Sales Contract</i>; James A. Seiber and Erma I. Seiber sign the Warranty Deed for 8 parcels of land. Caseyville Sport Choice pays \$1,460,000 to the Seibers for the purchase price, and an additional \$10,903.69 to cover the 2003 real estate taxes on the land.</p>	<p>HUD-1 form dated December 16, 2004, and signed by (illegible) for CSC, James A. Seiber, Erma I. Seiber, and Douglas E. Gruenke (for settlement agent certification) See green ATG File #04-023 for Caseyville Sport Choice.</p>
30	12/16/04		<p>James A. Seiber and Erma I. Seiber sign and deliver Warranty Deed for 8 parcels of land (described in 5 tracts), to Caseyville Sport Choice, LLC. Deed is recorded the same day at 10:28 a.m. in the St. Clair County Recorder's Office as Document A01883337 at Book 4120 Page 1589.</p>	<p>Warranty Deed in File #7 - "Contract and Deed from Seibers"</p>
31	12/21/04		<p>U.S. Bank's release of its mortgage (recorded as Document A779345 at Book 2578 Page 2188, in the St. Clair County Recorder's Office on June 1, 1984) is recorded in the St. Clair County Recorder's Office as Document A01883989 at Book 4122 Page 652</p>	<p>U.S. Bank's release of its mortgage (recorded as Document A779345 at Book 2578 Page 2188, St. Clair County Recorder's Office on June 1, 1984) is recorded in the St. Clair County Recorder's Office as Document A01883989 at Book 4122 Page 652</p>
32				

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
33				
34	4/2005(?)	Caseyville	Looking to the northwest. "View of Cell No. 4 after horse manure and solid waste materials present at this cell had been removed. Cell No. 4 extends from the location of the bulldozer in the photo background to the lower edge of the photo, and laterally to both edges of the photograph."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #13
35	4/2005(?)	Caseyville	Looking to the southwest. "View of Cell No. 4 after horse manure and solid waste materials present at this cell had been removed. Cell No. 4 extends from the location of the bulldozer in the photo background to the lower edge of the photo, and laterally to both edges of the photograph."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #14
36	6/14/05		"The Phase I ESA had revealed evidence of recognized environmental conditions (RECs) at the subject property. We urge you to read this entire letter and to contact the undersigned with any questions or concerns you may have about it." "12. 1998: A portion of this area was utilized as a soil borrow area. Along the toe of a bank in southeast area of this location, two areas of vegetation stress were noted. Along with the vegetation stress, seeps with brown and black staining were observed. Odors were not detected. Another small area to the northwest of this item was a pile of soil similar in shape to a ramp. 2004: Areas where soil had been removed from hillside were observed in this area. Stressed vegetation and staining was not observed in this area."	Limited Phase I Environmental Site Assessment Update, Forest Lake Development, St. Clair County, Illinois, prepared by Geotechnology, Inc. sent by Joseph P. Wier, Senior Scientist/Industrial Hygienist and Dale Smith, P.E., Senior Project Manager to Brad Rench, President of Meridian Bank in Alton, Illinois, with a cc to Don Ferris, Sport Choice LLC in Fairview Heights, Illinois
37	8/2005	Caseyville	"Aerial view of the Forest Lakes Development area. Near the center of the photograph some dirt haul roads and recently excavated barren soil is visible. It is within this location that the horse manure and solid waste removal project took place."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #1

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
38	8/2/05		Laboratory analytical report on two samples that had been received on July 25, 2005 for Client Sample ID Cell FL 1001 and also FL 1002	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Organics, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, first laboratory analytical report
39	8/29/05		"Site Characterization (Horse Manure)" Billed amount: \$4,500.00.	Invoice No. 0011049 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
40	10/2005	Caseyville	Looking to the northwest. "Dozer scraping horse manure and solid waste materials along bottom of Cell No. 1. The photo shows the west wall of this cell to still contain manure and solid waste at this point in the excavation of Cell No. 1."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #3
41	10/2005	Caseyville	"Solid waste material uncovered in Cell No. 1 during excavation of this cell. Text on the waste clearly identifies the waste as originating from the Fairmount Racetrack in 1994."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #4
42	10/2005	Caseyville	Looking to the southeast. "View of a portion of the south edge and southeast corner of Cell No. 1. Excavation at Cell No. 1 ceased to proceed further south of that point when native "clean" soil was encountered. Manure and solid waste materials that has yet to be excavated from Cell No. 1 is visible on the lower half of the photograph (dark material against lighter-colored native soil)."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #5
43	10/2005	Caseyville	Looking to the north. "Removal of horse manure and solid waste materials at Cell No. 1. Contrast between native soil and deposited waste materials is evident in the photo (native soil is much lighter in color in comparison to the dark manure material)."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #6
44	10/2005	Caseyville	Looking to the north. "View of the west (left side of photo) and north (upper portion of photograph) edges, and the floor of Cell No. 1 after horse manure and solid waste materials present at the cell had been removed."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #7

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
45	10/2005	Caseyville	Looking to the south. "View of Cell No. 1 after horse manure and solid waste materials present at this cell had been removed."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report, Appendix E, Photo #8</i>
46	10/2005	Caseyville	Looking to the north. "View of the southeast corner and south edge of Cell No. 2 after horse manure and solid waste materials present at this cell had been removed. The light brown silty clay soil native to this area is clearly visible in photograph."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report, Appendix E, Photo #9</i>
47	10/2005	Caseyville	Looking to the northwest. "Removal of horse manure and solid waste materials at Cell No. 3. Stock piled manure waste is evident underneath excavators. Native soil is evident along the bottom of the cell following removal of the waste material."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report, Appendix E, Photo #10</i>
47A	10/21/05		Laboratory analytical report on three samples received on October 14, 2005, for Client Sample ID Cell 1-1, 5' and Cell 1-1, 10' and Cell 1-2, 2B	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report, Appendix F, second laboratory analytical report</i>
48	10/24/05		"Invoice covering dates from October 10 – 22, 2005, at \$28.25 per ton, landfill tickets provided for your convenience." Total amount due was \$822,271.58.	Invoice No. 000456 from C&C Construction, P.O. Box 86, Bunker Hill, IL 62014, (618)255-2516, found in file labeled Exhibits – Invoices re: Clean-Up
49	10/24/05		Invoice covers period from "October 10 thru October 24 2005" calculated at the rate of \$1.75 per ton for 29106.96 tons, for a total amount of \$50,937.15 (this appears to be for supervising the waste hauling effort)	Invoice No. 0011052 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
49A	10/24/05		Laboratory analytical report on three samples received on October 17, 2005, for Client Sample ID Cell 1-3, 5' and Cell 1-3, 10' and Cell 1-4B	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report, Appendix F, third laboratory analytical report</i>
50	10/25/05	Caseyville	"Removal of horse manure and solid waste materials at Cell No. 1. Contrast between native soil and deposited waste material is evident along the floor of this cell (native soil is much lighter in color in	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report, Appendix E, Photo #2</i>

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			comparison to the dark manure material).”	
51	10/27/05		Laboratory analytical report on two samples received on October 19, 2005, for Client Sample ID Cell 3-10, 10’ and Cell 3-11, b	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, fourth laboratory analytical report
52	10/27/05		Laboratory analytical report on four samples received on October 19, 2005, for Client Sample ID Cell 1-7, 5’; Cell 1-7, 10’; Cell 1-8, b; Cell 2-9, b	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, fifth laboratory analytical report
53	11/7/05		Invoice covering dates from October 24 thru November 4, 2005, at \$28.25 per ton for solid waste and \$40.25 per ton for municipal trash, showing the total due of \$655,926.55	Invoice No. 000461 from C&C Construction, found in file labeled Exhibits – Invoices re: Clean-Up
54	11/7/05		Invoice covering period from October 24 thru November 4, 2005, calculated at the rate of \$1.75 per ton, for 22087.75 tons, for a total of \$38,653.54	Invoice No. 0011055 from New Horizon Environmental, found in file labeled Exhibits – Invoices re Clean-Up
55	11/17/05		Laboratory analytical report on three samples received on November 4, 2005, for Client Sample ID Cell 6-12, 5’; Cell 6-10’; Cell 6-13, b	Transmittal letter from Teklab, Inc. to Chad Hurley at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, sixth laboratory analytical report
56	12/15/05		Invoice covering dates from December 1 thru December 13, 2005, calculated at \$28.25 per ton for solid waste and \$44.25 per ton for tree disposal, showing a total due of \$396,755.41	Invoice No. 000482 from C&C Construction, found in file labeled Exhibits – Invoices re: Clean-Up
57	12/15/05		Invoice covering hauling during period from December 1 thru December 13, 2005, calculated at \$1.75 per ton, for 13810.19 tons, and showing a total due of \$24,167.85	Invoice No. 0011062 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
58	4/2006	Caseyville	Looking to the southwest. “Removal of horse manure and solid waste materials at Cell No. 4 (Cell 4 waste is shown on the lower half of the photo).”	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #11
59	4/2006	Caseyville	Looking to the west. “Removal of horse manure and solid waste materials at Cell No. 4. All waste previously contained in Cell	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon</i>

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			No. 4 has almost been 100% removed, with the only remaining waste being evident in the right-central portion of the photo. The contrast between the dark colored waste and lighter colored native soil present at the bottom of Cell No. 4 is evident in the photo."	<i>Environmental Report</i> , Appendix E, Photo #12
60	4/2006	Caseyville	"Collecting soil samples from the bottom of Cell No. 4 after all of the manure and solid waste had been removed."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #15
61	4/2006	Caseyville	Looking to the southwest. "Removal of horse manure and solid waste materials at Cell No. 7."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #16
62	4/2006	Caseyville	Looking to the south. "Removal of horse manure and solid waste materials at Cell No. 7."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #17
63	4/2006	Caseyville	Looking to the northwest. "Excavation wall (which appears to be 15' to 20' high) at Cell No. 7 that displays the solid waste material mixed within the horse manure."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #18
64	4/2006	Caseyville	"Waste materials that were present within Cell No. 7"	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #19
65	4/2006	Caseyville	"Photo depicts the newspaper that was removed from one of the horse manure and solid waste cells. The date on the paper (Sunday, August 13, 1989) is consistent with IEPA documentation which dated the improper dumping activities as occurring in the 1980s and early 1990s."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #20
66	4/2006	Caseyville	Looking to the west. "Excavation wall at Cell No. 7 that displays the solid waste material mixed within the horse manure."	Cardinal Aviation Services, LLC Aerial photograph of Forest Lakes Development area, looking to the northeast. <i>See New Horizon Environmental Report</i> , Appendix E, Photo #21

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
67	4/4/06	Caseyville	Looking to the southwest. "Aerial photograph showing locations of seven waste cells. Waste has been removed from all cells except Cell No. 4 and Cell No. 7 at the time photograph was taken. Removal of waste from Cell #7 was ongoing at the time photo was taken, and equipment and dark colored manure waste is evident in the center of the photograph. A small amount of waste has been stockpiled at Cell No. 4, which is present just above the treeline at the lower left portion of photograph. The depressions present at Cell No. 5 and Cell No. 6 are slightly visible in photograph just above the location of the stockpiled Cell No. 4 waste. The location of Cell No. 3 is not very evident in the photo, and is now located just below Cell No. 7 in the photo. Locations of Cell No. 1 and Cell No. 2 is (sic) not very evident in the photo. Cell No. 1 and Cell No. 2 are located near the haul road that is visible near the right edge of the photo."	CardinalAviationServices.com Aerial photograph of Forest Lakes Development area, looking to the northeast. See <i>New Horizon Environmental Report</i> , Appendix E, Photo #22
68	4/17/06		Invoice for "Excavation, loading, transport, and disposal of solid waste from Caseyville, Illinois to local area landfills. From March 27, 2006 through April 15, 2006. (\$24.25 per ton.)" Shows a total due of \$1,222,980.77	Invoice No. 14623 from OCE, Inc., P.O. Box 86, Bunker Hill, IL 62014, found in file labeled Exhibits – Invoices re: Clean-Up
69	4/17/06		Invoice covering period from March 29 thru April 15, 2006, calculated at the rate of \$1.75 per ton, for 50432.20 tons, for a total of \$88,256.29	Invoice No. 0012457 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
69A	4/19/06		Laboratory analytical report on eighteen samples received on April 10, 2006, for Client Sample ID Cell 4-17, 10'; Cell 4-18, 10'; Cell 4-16, 10'; Cell 4-19; Cell 4-20, b; Cell 4-21, b; Cell Duplicate 1; Cell 4-15, 10'; Cell 4-14, 10'; Cell 5-22, 10'; Cell 5-23; Cell 5-24, b; Cell 5-25, 10'; Cell 5-26, 5'; Duplicate Cell 2; Cell 5-27, 10'; Cell 5-29, b; Cell 5-28, b	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, seventh laboratory analytical report
70	5/1/06		Invoice for "Excavation, loading, transport, and	Invoice No. 14645 from OCE, Inc., found in file labeled

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			disposal of solid waste from Caseyville, Illinois to local area landfills. From April 17, 2006 through April 28, 2006. (\$24.25 per ton.) Shows a total due of \$876,647.88	Exhibits – Invoices re: Clean-Up
71	5/1/06		Invoice covering period from April 17 thru April 28, 2006, calculated at the rate of \$1.75 per ton, for 36150.43 tons, for a total of \$63,263.20	Invoice No. 0012465 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
72	5/1/06		Laboratory analytical report on eight samples received on April 20, 2006, for Client Sample ID Cell 7-30; Cell 7-31, b; Cell 7-32; Cell 7-33; Cell 7-34, 20'; Cell 7-35, 10'; Cell 7-36, 20'; Duplicate Cell 3	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, eighth laboratory analytical report
73	5/6/06		Invoice for "Excavation, loading, transport, and disposal of solid waste from Caseyville, Illinois to local area landfills. From May 2, 2006 through May 4, 2006. (\$24.25 per ton.)" Shows a total due of \$255,276.83	Invoice No. 14659 from OCE, Inc., found in file labeled Exhibits – Invoices re: Clean-Up
74	5/8/06		Invoice covering period from May 2 thru May 4, 2006, calculated at the rate of \$1.75 per ton, for 10526.88 tons, for a total of \$18,422.03	Invoice No. 0012473 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up
75	5/12/06		Laboratory analytical report on eleven samples received on May 4, 2006, for Client Sample ID Cell 7-37, 20'; Cell 7-38, b; Cell 7-39, b; Cell 7-40, 30'; Cell 7-41; Cell 7-42, 20'; Cell 7-43, 40'; Cell 7-44, b; Cell 7-45, b; Cell 7-46, b; Duplicate Cell 4	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, ninth laboratory analytical report
76	5/19/06		Laboratory analytical report on one sample received on May 18, 2006, for Client Sample ID MW-1	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, twelfth laboratory analytical report
77	5/23/06		Laboratory analytical report on twelve samples received on May 15, 2006, for Client Sample ID MW-1 3'; MW-1 19'; MW-2 3'; MW-2 14'; MW-3 3'; MW-3 24'; MW-4 3'; MW-4 14'; MW-5 3'; MW-5 9'; MW-6 3'; MW-6 14'	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report. Found at <i>New Horizon Environmental Report</i> , Appendix F, tenth laboratory analytical report
78	5/25/06		Laboratory analytical report on six samples received on May 17, 2006, which contains the warning, "These	Transmittal letter from Teklab, Inc. to Dave Lowry at New Horizon Environmental, transmitting report.

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			samples were out of temperature compliance upon receipt. Per Amanda Friedrich, continue with analysis out of temperature compliance. A significant amount of headspace was present in the MW-1 volatile vials. Per Amanda Friedrich, cancel MW-1 volatile analysis; client will recollect." Client Sample ID: MW-1; MW-2; MW-3; MW-4; MW-5; MW-6	Found at <i>New Horizon Environmental Report</i> , Appendix F, eleventh laboratory analytical report
79	6/14/06	Jerseyville to Springfield, Illinois	Transmitting three copies of a <i>Comprehensive Site Investigation, Remedial Objectives, Remedial Action Plan, and Remedial Action Completion Report</i> to fulfill IEPA requirements for issuance of a "focused No Further Remediation Letter."	Letter from New Horizon Environmental to IEPA
80	6/14/06	Jerseyville to Springfield, Illinois	<p>Submission of completed <i>Site Remediation Program Form (DRM-2)</i> to IEPA, including submission of <i>Site Investigation Report – Comprehensive Remediation Objectives Report – Tier 1 or 2 Remedial Action Plan Remedial Action Completion Report</i></p> <p>Executive Summary</p> <p>"This (Report) was prepared to fulfill requirements of the Illinois Voluntary Site Remediation Program for issuance of a No Further Remediation Letter for three properties located in Caseyville, Illinois, that were formerly owned and managed by Mr. James A. Seiber."</p> <p>"The objective of the Forest Lakes Horse Manure and Solid Waste Removal Project is to adequately address the identified recognized environmental conditions (RECs) for the former Seiber properties so that a focused No Further Remediation Determination letter can be issued for benzene, toluene, ethyl benzene and xylene (BTEX), and chlorinated pesticides in soils. ... The RECs are those areas at the former Seiber properties where horse manure and trash was discovered to have been improperly disposed. Review</p>	<p><i>Site Remediation Program Form (DRM-2)</i> for former James A. Seiber Properties, 200 Southern Drive Caseyville, Illinois Inventory I.D. Number LPC #163025037</p>

Pretrial Exhibit #	Date	Place	Event	Documents
--------------------	------	-------	-------	-----------

			<p>of background information available for this site, site investigation activities conducted as part of this Project, and ongoing site development activities not directly associated with this Project identified seven areas where significant amount of the horse manure and solid waste material had been disposed. These seven areas are designated as waste Cell Nos. 1-7 in this Report." (Page i)</p> <p>"Following review of information obtained as part of site characterization activities, it was determined that the remedial objectives would be to remove horse manure and solid waste improperly dumped at various locations at the former James Seiber properties, and, following removal of the waste, confirmed that no BTEX or chlorinated pesticides impact at levels above IEPA Part 741 Tiered Approach to Corrective Action Objective (TACO) had occurred to the surrounding soil or groundwater as a result of the improper dumping activities. Excavation and disposal to a permitted landfill was the remedial option selected. Physical and chemical characteristics of the material excavated during site investigation activities revealed that the material could be disposed to a non-hazardous landfill as a non-special waste. At each location where the solid waste was present, the proper lateral and vertical extended material excavated was determined in the field by the onsite Environmental Technician using the following methods:</p> <ol style="list-style-type: none"> 1. Visual observation of changes in surface features... 2. Visual observation of changes in subsurface soil/geology... 3. Visual observation of the presence or absence of waste paper, plastic, glass, metal, rubber, 	
--	--	--	---	--

Pretrial Exhibit #	Date	Place	Event	Documents
			<p>etc. <i>A primary reason</i> the waste is regulated is the presence of these types of items in the manure. The vertical and horizontal limits of excavation did not cease until that point where it was visually evident that the waste paper, plastic, glass, metal, rubber, etc. materials were no longer present.</p> <p>4. Photoionization detector (PID) measurements. During excavation activities, the Environmental Technician used a PID instrument to monitor for the presence of volatile organic compounds (VOCs).”</p> <p>“A total of 162,850.95 tons of waste was removed and disposed at the Milam Recycling and Disposal Facility located in East St. Louis, Illinois (under waste profile number IED 1002135) or the Roxana Landfill located in Roxana, Illinois (under waste profile number 338Y511343).”</p> <p>“In the following excavation of the waste material, 51 confirmation samples were collected (not including duplicate samples and soil samples collected as part of the monitoring well installation activities (from all areas where the waste material was formerly located). Samples were submitted to Teklab, Inc. in Collinsville, Illinois, for BETX analysis via EPA method SW 848 5030 8260B, and chlorinated pesticides analysis via EPA method SW 846 3550B 8081A. Figure Nos. 8 and 9 show the location of all confirmation samples collected as part of the Forest Lakes Horse Manure and Solid Waste Removal Project. Also shown on each figure is the GPS surveyed boundary of the excavated areas for each discovered waste cell.”</p>	

Pretrial Exhibit #	Date	Place	Event	Documents
			<p>“Of the 51 soil samples collected and analyzed, not one sample exceeded a TACO Tier 1 residential BTEX or chlorinated pesticides limit for the soil ingestion or inhalation exposure route, or the soil component of the ground water ingestion exposure route for Class 1 ground water. ...”</p> <p>“This Report provides documentation that horse manure and solid waste improperly dumped at various locations at the former James Seiber properties has been sufficiently removed, and no BTEX or chlorinated pesticides impact at levels above TACO has occurred to the surrounding soil or ground water as a result of the improper dumping activities. Therefore, the remedial objectives associated with the horse manure and solid waste removal project have been met.”</p>	
81	6/15/06			<p>Aerial photograph prepared by New Horizon Environmental on a scale of 1" = 750', showing (in red) the complete boundary of the Forest Lakes Development property and (in yellow) the seven cells from which manure was removed. <i>See New Horizon Environmental Report, Figures, Figure 1</i></p>
82	(6/15/06)			<p>USGS 7.5-Minute topographic map, with boundary of Forest Lake Development property superimposed in black <i>See New Horizon Environmental Report, Figures, Figure 2</i></p>
83	6/15/06			<p>1980 Aerial photograph of the area, on which the boundaries of the seven cells are drawn in yellow, at a scale of 1" = 250'. The Forest Lakes Development property boundary is shown in red. <i>See New Horizon Environmental Report, Figures, Figure 3</i></p>
84	6/15/06			<p>1985 Aerial photograph of the area, on which the boundaries of the seven cells, containing manure, are superimposed in yellow, having a scale of 1" = 250'. The Forest Lakes Development property boundary is shown in red.</p>

Pretrial Exhibit #	Date	Place	Event	Documents
85	6/15/06			<p><i>See New Horizon Environmental Report, Figures, Figure 4</i></p> <p>1991 Aerial photograph of the area, on which the boundaries of the seven cells, containing manure, are superimposed in yellow, having a scale of 1" = 250'. The Forest Lakes Development property boundary is shown in red.</p>
86	6/15/06			<p><i>See New Horizon Environmental Report, Figures, Figure 5</i></p> <p>2004 Aerial photograph of the area, on which the boundaries of the seven cells, containing manure, are superimposed in yellow, having a scale of 1" = 250'. The Forest Lakes Development property boundary is shown in red.</p>
87	6/15/06			<p><i>See New Horizon Environmental Report, Figures, Figure 6</i></p> <p>Aerial photograph (apparently from 2004) of the area, on which the boundaries of the seven cells, containing manure, are superimposed in yellow, and the locations of the monitoring wells are indicated with green safety symbols, having a scale of 1" = 200'. The Forest Lakes Development property boundary is shown in red.</p>
88	6/15/06			<p><i>See New Horizon Environmental Report, Figures, Figure 7</i></p> <p>Aerial photograph (apparently from 2004) of the area, on which the boundaries of Cells 1, 2, and 7 are superimposed in yellow, and the confirmation sample locations are indicated with red safety circles, having a scale of 1" = 100'.</p>
89	6/15/06			<p><i>See New Horizon Environmental Report, Figures, Figure 8</i></p> <p>Aerial photograph (apparently from 2004) of the area, on which the boundaries of Cells 3, 4, 5, and 6 are superimposed in yellow, and the confirmation sample locations are indicated with red safety circles, having a scale of 1" = 100'.</p>
90	6/19/06		<p>"Groundwater Sampling/Soil Analysis Performed by Aquaterra in order to acquire IEPA NFR Solid Waste Removal. Tree Removal Rte. 159." Showing a total (with payment in full) of \$10,530.00</p>	<p><i>See New Horizon Environmental Report, Figures, Figure 9</i></p> <p>Invoice No. 0012499 from New Horizon Environmental, found in file labeled Exhibits – Invoices re: Clean-Up</p>

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
91	9/13/06		"The Remediation Site, consisting of 142.62 acres, is located at 40 West Brookhaven Drive, Caseyville, Illinois. Pursuant to Section 58.10 of the Illinois Environmental Protection Act ("Act")(415 ILCS 5/1 et seq.), your request for a no further remediation determination is granted under the conditions and terms specified in this letter. The Remediation Applicant, as identified on the Illinois EPA's Site Remediation Program DRM-1 Form received October 17, 2005 is New Horizon Environmental, Inc. This focused No Further Remediation Letter ("Letter") signifies a release from further responsibilities under the Act for the performance of the approved remedial action. This Letter shall be considered prima facie evidence that the Remediation Site described in the attached Illinois EPA Site Remediation Program Environmental Notice and shown in the attached Site Base Map does not constitute a threat to human health and the environment for the specified recognized environmental conditions so long as the Site is utilized in accordance with the terms and conditions of this Letter."	Environmental No Further Remediation Letter, sent by Joyce L. Munie, P.E., Manager, Remedial Project Management Section, Division of Remediation Management, Bureau of Land for the IEPA, to Chad Hurley at New Horizon Environmental
92	9/27/06		Recording of the Environmental No Further Remediation Letter as Document No. A02003866 in the Recorder's Office of St. Clair County, Illinois	See Recorder's Certified Copy of Environmental No Further Remediation Letter in file labeled Exhibits – NFR letter
93				Chain of Title: Summary of transfers of property from/to Seibers (with copies of deeds attached)
94				Legal Description (& notes) re: manure
95				Phase I Environmental Site Assessment Update, Forest Lake Development #0486904.45TA, dated September 8, 2004, prepared by GeoTechnology, Inc. for Burns & McDonnell
96				Summary of Statements to CSC re Removal of Horse Manure and Municipal Trash
97	6/1/06		Illinois EPA bill for \$6,577.09, receipt for 1,000.00	Letter dated June 1, 2006, from Sherri Oxencis, Financial

Electronic Filing - Received, Clerk's Office, 07/05/2011

Pretrial Exhibit #	Date	Place	Event	Documents
			prepayment	Management Unit, Planning and Reporting Section, Bureau of Land, Illinois Environmental Protection Agency, to Chad Hurley, New Horizon Environmental with attached itemized invoice and supporting documentation for costs incurred and paid by the IEPA at the Caseyville Sport Choice LLC site in Caseyville for the time period Inception through March, 2006.
98	1/7/99		James A. Seiber Sr.'s handwritten letter to "Whom it May Concern" wherein he states that "As far as were [sic] concerned [sic] there are no hazardous materials buried on the property. Straw & Bedding material burying on one part of the farm from Fairmont [sic] Race Tract[sic]. ..."	Handwritten letter from James A. Seiber Sr. to "Whom it May Concern"