

**FORMAL COMPLAINT**

**Before the Illinois Pollution Control Board**

	)	
	)	
Matt Gill	)	
	)	
Complainant(s),	)	
	)	
	)	
v.	)	PCB 20 -
	)	[For Board use only]
	)	
CHS Inc. - Carrollton Farmers Elevator	)	
	)	
Respondent(s)	)	

**Note to the Complainant:** If you do not use this Formal Complaint form and instead draft and type your own, it must contain all of the information requested by this form. All items must be completed. If there is insufficient space to complete any item, you may attach additional sheets, specifying the number of the item you are completing. Once you have completed the Formal Complaint, the Notice of Filing, and the Documentation of Service, you must "file" these three documents with the Clerk of the Board and "serve" a copy of each document on each respondent. Specific requirements for the filing, service, and contents of these documents are set forth in the Board's procedural rules (35 Ill. Adm. Code 101, 103) and addressed in the explanatory materials accompanying this form.

1. Your Contact Information

Name: Matt Gill  
Street Address: RR 1 Box 3  
Carrollton, IL 62016  
County: Greene  
State: Illinois  
Phone Number: (217)942-3974

2. Place where you can be contacted during normal business hours (if different from above)

Name: Matt Gill  
Illinois EPA  
Street Address: 1021 North Grand Avenue East  
Springfield, IL 62794-9276  
County: Sangamon  
State: Illinois  
Phone Number: (217)782-9315

3. Name and address of the respondent (alleged polluter)

Name: CHS Inc. – Carrollton Farmers Elevator  
Street Address: 201 South Main Street  
Carrollton, IL 62016  
County: Greene  
State: Illinois  
Phone Number: (217) 942 - 6922

4. Describe the type of business or activity that you allege is causing or allowing pollution (e.g., manufacturing company, home repair shop) and give the address of the pollution source if different than the address above.

*Temporary Flat Grain Storage Facility and New Grain Storage Bin located on East edge of Carrollton, Illinois. The facility is located approximately 0.5 miles west of my home. (See attached aerial photograph.)*

5. List specific sections of the Environmental Protection Act, Board regulations, Board order, or permit that you allege have been or are being violated.

*35 Ill. Adm. Code Section 901.102(a)*  
*35 Ill. Adm. Code Section 901.102(b)*

6. Describe the type of pollution that you allege (e.g., air, odor, noise, water, sewer back-ups, hazardous waste) and the location of the alleged pollution. Be as specific as you reasonably can in describing the alleged pollution.

Noise Pollution that exceeds the limits allowed at 35 Ill. Adm. Code Section 901.102(a) and (b). Specifically, the sound level significantly exceeds the octave band center frequency (hertz) at 500, 1000 and 2000 Hz ranges. Sound pressure level measurements were made using 35 Ill. Adm. Code Section 910.105 as guidance in gathering data.

7. Describe the duration and frequency of the alleged pollution. Be as specific as you reasonably can about when you first noticed the alleged pollution, how frequently it occurs, and whether it is still continuing (include seasons of the year, dates, and times of day if known).

The pollution occurs every year beginning with the fall corn harvest and continues intermittently until the corn is removed from the storage units in the spring. The existing flat storage unit has been used for several seasons. The New 1,500,000 bushel grain storage bin was constructed this summer and has not completely started up yet. There are 10 blowers on the bin and only 1 or 2 have begun operation. I am concerned when all of the blowers are in operation, the noise levels will be even higher than they are now. Sound pressure level measurements were made on three occasions between December 1, 2015 and December 10, 2015 during nighttime hours and were up to 14 dB over the limit specified at 35 Ill. Adm. Code Section 901.102(b). Note: I am a Professional Engineer licensed in the State of Illinois.

8. Describe any bad effects that you believe the alleged pollution has or has had on human health, on plant or animal life, on the environment, on the enjoyment of life or property, or on any lawful business or activity.

This noise pollution has affected my family's quality of life, caused sleep problems for my wife and myself and decreased my property's value. We purchased this property in 1992 for peace and quiet and have had neither whenever the grain blowers are operating. Our home was built in 1868 and is listed individually in the National Register of Historic Places (the Henry T. Rainey Estate).

9. Describe the relief that you seek from the Board (e.g., an order requiring that the respondent stop polluting, take pollution abatement measures, perform a cleanup, reimburse cleanup costs, change its operation, or pay a civil penalty (note that the Board cannot order the respondent to pay your attorney fees or any out-of-pocket expenses that you incur by pursuing an enforcement action)).

I seek an order requiring the respondent to stop exceeding the noise levels allowed by the Ill. Adm. Code, with stipulated fines (civil penalties) for any future violations, along with monitoring and reporting requirements. (Pursuant to Section 42(a) of the Environmental Protection Act, the civil penalty shall not exceed \$50,000 for the violation and an additional civil penalty shall not exceed \$10,000 for each day during which the violation continues.) In order to demonstrate continuous compliance, the respondent should be required to provide third party noise monitoring which conforms to 35 Ill. Adm. Code 910.105, including monthly testing in any calendar month in which the blowers operate for more than seven days. The testing should be conducted at the closest residential receiving land or the respondent's property lines, since there are other residential property owners closer to the noise source than my residence. An annual compliance report sent to the IPCB and published in a local newspaper should also be required.

10. Identify any identical or substantially similar case you know of brought before the Board or in another forum against this respondent for the same alleged pollution (note that you need not include any complaints made to the Illinois Environmental Protection Agency or any unit of local government).

None known

11. State whether you are representing (a) yourself as an individual or (b) your unincorporated sole proprietorship. Also, state whether you are an attorney and, if so, whether you are licensed and registered to practice law in Illinois. (Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. Also, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, an individual who is not an attorney is allowed to represent (a) himself or herself as an individual or (b) his or her unincorporated sole proprietorship, though the individual may prefer having attorney representation.)

I am representing myself as an individual and I am not an attorney.

12. Matt W. Gill  
(Complainant's signature)

**CERTIFICATION**  
(optional but encouraged)

I, Matt W. Gill, on oath or affirmation,  
state that I have read the foregoing and that it is accurate to the best of my knowledge.

Matt W. Gill  
(Complainant's signature)

Subscribed to and sworn before me

this 11<sup>th</sup> day

of December, 2015.



Virginia A. Wetmore  
Notary Public

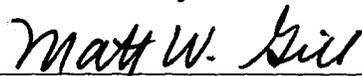
My commission expires: 6-11-17

## NOTICE OF FILING

**Note to the Complainant:** This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Matt Gill, filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

**Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).**



Complainant's signature

Street RR 1 Box 3

City, state, zip code Carrollton, IL 62016

Date 12-11-2015

## INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

### Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

“Frivolous” means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); see *also* 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must “file” the motion with the Board’s Clerk and “serve” a copy of the motion on each of the other parties to the proceeding. The Board’s filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board’s website ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

### **Answer to Complaint**

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them

for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

### **Necessity of an Attorney**

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs, and present a defense at hearing.

### **Costs**

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3629.

## DOCUMENTATION OF SERVICE

**Note to the Complainant:** This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

### Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. \_\_\_\_ U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as \_\_\_\_\_ [*month/date*], 2015. [*Attach the signed delivery confirmation showing the date of delivery.*]

B. X U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On December 11, 2015, by the time of 3:00PM, at the Carrollton, Illinois U.S. Post Office, North Main Street, Carrollton, Illinois, 62016, copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. \_\_\_\_ Personal service and I made the personal delivery on \_\_\_\_\_ [*month/date*], 20\_\_\_\_, by the time of \_\_\_\_:\_\_\_\_ AM/PM.

D. \_\_\_\_ Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as

\_\_\_\_\_ [month/date], 20\_\_ . [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. \_\_\_\_\_ Personal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time. On \_\_\_\_\_ [month/date], 20\_\_, by the time of \_\_:\_\_ AM/PM, at

\_\_\_\_\_ [address where you provided the documents to the person making the personal delivery], copies of the attached Formal Complaint and Notice of Filing were provided to \_\_\_\_\_ [name of the person making the personal delivery], with the respondent's address appearing on the envelope or package containing these documents, and with proper delivery charge prepaid. [Within seven days after it becomes available to you, file with the Board's Clerk the affidavit or declaration of service—containing the signature of the person who made personal delivery and showing the date of delivery—and identify the Formal Complaint to which that affidavit or declaration corresponds.]

RESPONDENT'S ADDRESS:

Name CHS Inc. – Carrollton Farmers Elevator

Street 201 South Main Street

City, state, zip code Carrollton, IL 62016

(list each respondent's name and address if multiple respondents)

Matt W Gill  
Complainant's signature

Street RR 1 Box 3

City, state, zip code Carrollton, IL 62016

Date 12-11-2015

Subscribed to and sworn before me

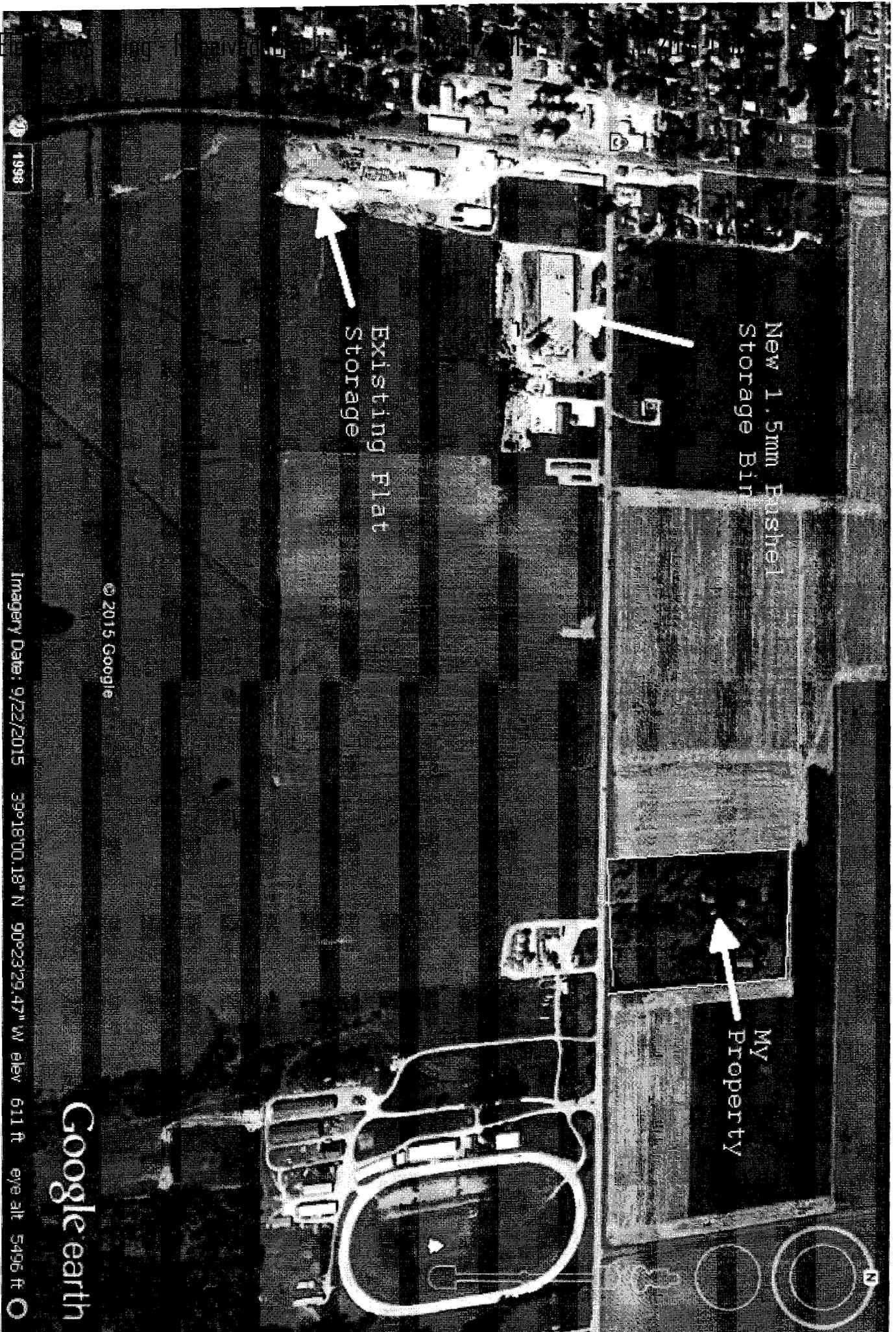
this 11<sup>th</sup> day

of December, 2015.

Virginia A. Wetmore  
Notary Public



My commission expires: 6-11-17



New 1.5mm Poshel  
Storage Bin

Existing Flat  
Storage

My  
Property

© 2015 Google

1998

Imagery Date: 9/22/2015 39°18'00.18" N 90°23'29.47" W elev 611 ft eye alt 5496 ft

Google earth