



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-874-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

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CLERK'S OFFICE

DEC 15 2004

STATE OF ILLINOIS
Pollution Control Board

(217) 782-9817
TDD: (217) 782-9143

AC05-44

December 13, 2004

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

Re: Illinois Environmental Protection Agency v. Donald Eichen
IEPA File No. 587-04-AC; 1170150004—Macoupin County

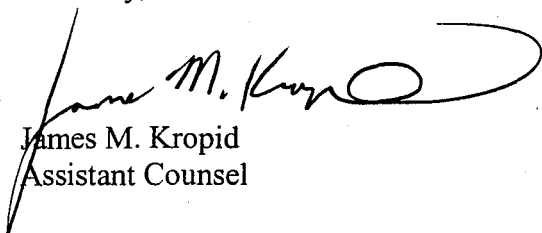
Dear Clerk Gunn:

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

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

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

Sincerely,


James M. Kropid
Assistant Counsel

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

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DEC 15 2004

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
DONALD EICHEN,)
)
Respondent.)

AC 05-44

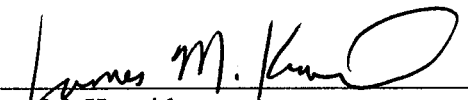
(IEPA No. 587-04-AC)

NOTICE OF FILING

To: Donald Eichen
211 W. Breckenridge
Carlinville, IL 62626

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

Respectfully submitted,


James M. Kropid
Special Assistant Attorney General

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

Dated: December 13, 2004

inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Jan Mier during the course of her November 1, 2004 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than January 14, 2005, unless otherwise provided by order of the Illinois Pollution Control Board.

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

violation.

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

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

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

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

Renee Cipriano
Renee Cipriano, Director *by wcc*
Illinois Environmental Protection Agency

Date: 12/13/04

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF:)

Illinois Environmental)
Protection Agency)

vs.)

Donald Eichen)
Respondent)

AC 05-44

IEPA DOCKET NO.

Affiant, *Jan Mier*, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control/Field Operations Section of the Environmental Protection Agency and has been so employed at all times pertinent hereto.

2. On, November 1, 2004 between 11:10 a.m. and 11:35 a.m., Affiant conducted an inspection of an open dump, located in Macoupin County, Illinois and known as *Carlinville/Eichen* by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC # 1170150004 by the Agency.

3. Affiant inspected said site by an on-site inspection, which included walking and photographing the site.

4. As a result of the activities referred to in Paragraph 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to said open dump.

Jan Mier

Jan Mier

Subscribed and Sworn to Before Me
this 4th day of Nov., 2004

Charlene K. Powell

Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: MACOUPIN LPC#: 1170150004 Region: 5-SPFLD
 Location/Site Name: CARLINVILLE/EICHEN
 Date: 11/1/04 Time: From 11:10 AM To 11:35 PM Previous Inspection Date: 7/15/04
 Inspector(s): JAN MIER Weather: 60 F, RAINING
 No. of Photos Taken: # 15 Est. Amt. of Waste: 500 yds³ Samples Taken: Yes # No X
 Interviewed: DONALD EICHEN Complaint #:

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

DONALD EICHEN
 211 W. BRECKENRIDGE
 CARLINVILLE, IL 62626
 217/854-2333


DEC 02 2004
 EPA-ILPC

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

LPC # 1170150004

Inspection Date: 11/1/04

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



Signature of Inspector(s)

Informational Notes

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

**Illinois Environmental Protection Agency
Inspection Narrative**

**LPC#1170150004 – Macoupin County
Carlinville/Eichen
FOS File**

**Inspection Date –7/15/04
Inspector – Jan Mier**

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EPA-DLPC

On November 1, 2004, I conducted a re-inspection at the above-referenced site. The property is owned by Donald Eichen. Apparently, the site is an old amusement park as evidenced by the large slide and other rides that have been dismantled and are deteriorating in the weather. Mr. Eichen was sent an Administrative Citation Warning Notice on April 3, 2003 with a compliance deadline date of May 12, 2003 to remove open dumped waste. A re-inspection was conducted on April 22, 2004 with Mr. Eichen and his father present, and an extension was given until June 14, 2004 to properly dispose of all used tires and until October 22, 2004 for all other waste at the site. No written response or receipts for disposal were ever submitted to the Illinois EPA.

I arrived at 11:10 a.m. The site appeared unchanged. Metal machinery is still sitting amidst unmowed vegetation (see photo #001). Mr. Eichen has repeatedly told me about projects he wants to do with the material on site, such as roof the warehouse (see photo #002) to store all the material currently outside (see photo #003) and make the modular building on site into a storage building (see photo #004). Photo #005 shows more metal and railroad ties sitting in weeds. Photo #006 shows a piece of heavy equipment and metal machinery. Photo #007 shows the slide on site with a dismantled vehicle next to it. On the rim used tires, metal scaffolding, plastic tanks and lumber sit among weeds in photo #008. A dismantled amusement ride was observed (see photo #009). Waste, including a fan, concrete drainage pipe, a drum, metal pipes and sheet metal were scattered along the fence on the west side of the property (see photo #010). Used tires that were supposed to be disposed by June 14, 2004 are shown in photos #011, 012, and #013. The painted used tires are from the go-kart track on site. Piles of landscape waste are scattered throughout the site (see photo #014 and #015). I departed at 11:35 a.m.

Continuing violations observed during the inspection are noted on the attached checklist.

cc: DLPC/FOS – Springfield Region

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY

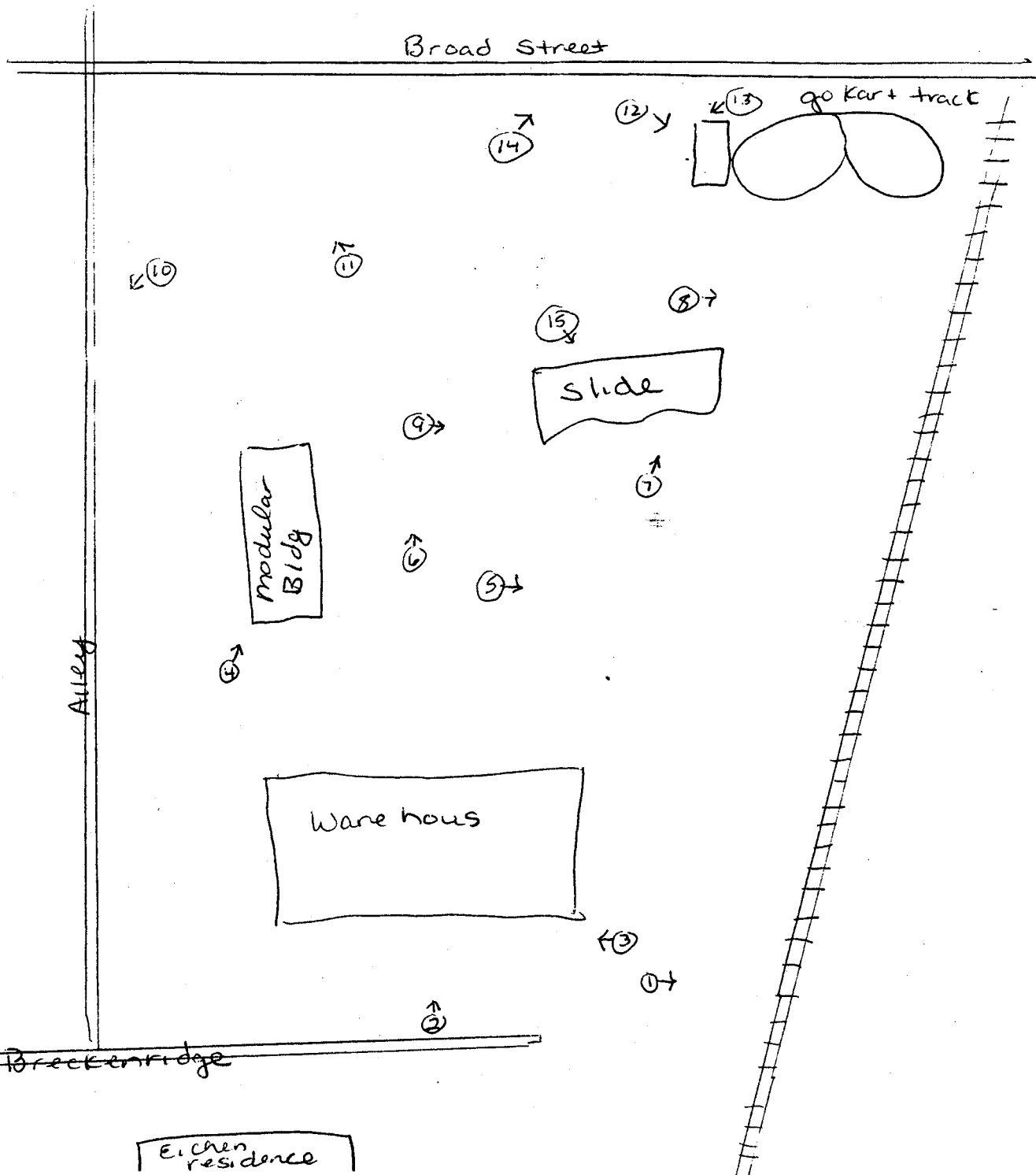
SITE SKETCH

Date of Inspection: 1/1/04
Site Code: LPC#1170155004
Site: Carlinville/Eichen

Inspector: Jan Mier
County: Macoupin
Time: 11:10 a.m. - 11:35 a.m.

Measurements Approximate
Direction of Photo →
Not to Scale

NORTH





DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:25 a.m.
Direction: E
Photo by: Jan Mier
Exposure #: 001
Comments:

Metal machinery
among vegetation



Date: 11/1/04
Time: 11:25 a.m.
Direction: N
Photo by: Jan Mier
Exposure #: 002
Comments:

Unfinished warehouse
with rusted metal
machinery, lumber, and
metal

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:26 a.m.
Direction: W
Photo by: Jan Mier
Exposure #: 003
Comments:

Scrap metal, lumber,
corrugated metal and
machinery



Date: 11/1/04
Time: 11:27 a.m.
Direction: N/NW
Photo by: Jan Mier
Exposure #: 004
Comments:

Metal trailer that has
been on site since
February 2003

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:27 a.m.
Direction: E
Photo by: Jan Mier
Exposure #: 005
Comments:

Machinery and railroad
ties in vegetation



Date: 11/1/04
Time: 11:28 a.m.
Direction: N
Photo by: Jan Mier
Exposure #: 006
Comments:

Metal air conditioner,
scrap metal, lumber
and bulldozer

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:28 a.m.
Direction: N/NE
Photo by: Jan Mier
Exposure #: 007
Comments:

Partial vehicle with axle
and other parts



Date: 11/1/04
Time: 11:28
Direction: E
Photo by: Jan Mier
Exposure #: 008
Comments:

Used tires on the rim,
metal scaffolding,
plastic tanks and
miscellaneous metal

File Names: 1170150004 ~11012004-[Exp. #].jpg

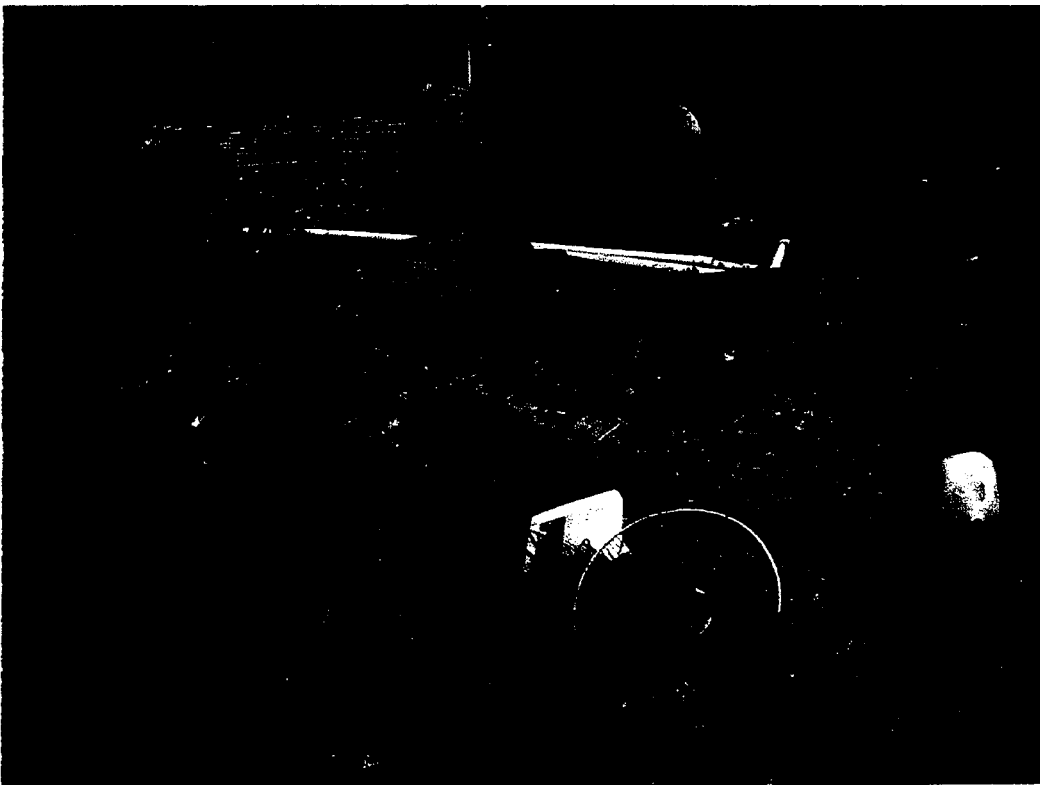


DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:29 a.m.
Direction: E
Photo by: Jan Mier
Exposure #: 009
Comments:

Wooden sled among
vegetation



Date: 11/1/04
Time: 11:30 a.m.
Direction: SW
Photo by: Jan Mier
Exposure #: 010
Comments:

Fan, concrete pipe,
barrel, metal pipe, and
sheet metal

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:30 a.m.
Direction: NW
Photo by: Jan Mier
Exposure #: 011
Comments:

Used tires and
landscape waste



Date: 11/1/04
Time: 11:31 a.m.
Direction: SE
Photo by: Jan Mier
Exposure #: 012
Comments:

Used tires from go kart
track with lawn mower
and plastic waste

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:31 a.m.
Direction: SW
Photo by: Jan Mier
Exposure #: 013
Comments:

Used tires from go cart
track that contained
water



Date: 11/1/04
Time: 11:31 a.m.
Direction: NE
Photo by: Jan Mier
Exposure #: 014
Comments:

Landscape waste

File Names: 1170150004 ~11012004-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 11/1/04
Time: 11:32 a.m.
Direction: SE
Photo by: Jan Mier
Exposure #: 015
Comments:

Slide overgrown with
weeds

File Names: 1170150004 ~11012004-[Exp. #].jpg

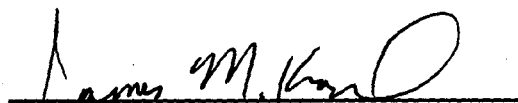
PROOF OF SERVICE

I hereby certify that I did on the 13th day of December 2004, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Donald Eichen
211 W. Breckenridge
Carlinville, IL 62626

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

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



James M. Kropid
Special Assistant Attorney General

Illinois Environmental Protection Agency
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