



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3011
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

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

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AUG 04 2006

STATE OF ILLINOIS
Pollution Control Board

August 1, 2006

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

AC07-005

Re: Illinois Environmental Protection Agency v. Allen and Lois Noltensmeier
IEPA File No. 132-06-AC; 1258015001—Mason 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 given to an inspector from the Springfield Regional Office to be delivered to Respondent via hand delivery. As soon as I receive the affidavit of service, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

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

Sincerely,

Michelle M. Ryan
Assistant Counsel

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ADMINISTRATIVE CITATION

AUG 04 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
ALLEN and LOIS NOLTENSMEIER,)
))
Respondents.)

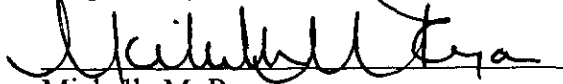
AC 07-005
(IEPA No. 132-06-AC)

NOTICE OF FILING

To: Allen and Lois Noltensmeier
1027 County Road 200N
Chandlerville, Illinois 62627

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

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

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

Dated: August 1, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC
)	
v.)	(IEPA No. 132-06-AC)
)	
ALLEN and LOIS NOLTENSMEIER,)	
)	
)	
)	
Respondents.)	

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2004).

FACTS

1. That Lois Noltensmeier is the present owner and Allen Noltensmeier is the operator (collectively "Respondents") of a facility located at 10267 County Road 200N, Chandlerville, Mason County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Bath Township/Noltensmeier.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1258015001.
3. That Respondents have owned/operated said facility at all times pertinent hereto.
4. That on June 20, 2006, Michelle Cozadd of the Illinois Environmental Protection Agency's Springfield Regional Office inspected the above-described facility. A copy of her

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

VIOLATIONS

Based upon direct observations made by Michelle Cozadd during the course of her June 20, 2006 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2004).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), Respondents are 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 Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than August 31, 2006, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2004), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each

violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2004), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

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

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

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2004). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

Douglas P. Scott
Douglas P. Scott, Director *by wee*
Illinois Environmental Protection Agency

Date: 8/1/06

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

REMITTANCE FORM

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AUG 04 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Complainant,)
)
 v.)
)
 ALLEN and LOIS NOLTENSMEIER,)
)
)
)
 Respondents.)

AC **67-005**
 (IEPA No. 132-06-AC)

FACILITY: Bath Township/Noltensmeier SITE CODE NO.: 1258015001
 COUNTY: Mason CIVIL PENALTY: \$1,500.00
 DATE OF INSPECTION: June 20, 2006

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

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

RECEIVED
CLERK'S OFFICE

AUG 04 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant)
))
vs.)
))
LOIS NOLTENSMEIER and)
ALLEN NOLTENSMEIER,)
Respondents)

IEPA DOCKET NO.

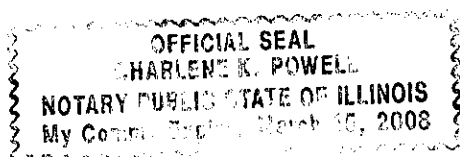
Affiant, Michelle E. Cozadd, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On June 20, 2006, between 9:10 AM and 9:30 AM, Affiant conducted an inspection of a disposal site operated without an Illinois Environmental Protection Agency permit, located in Mason County, Illinois, and known as Bath Township/Noltensmeier by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC #1258015001 by the Illinois Environmental Protection Agency.
3. Affiant inspected said Bath Township/Noltensmeier open dump site by an on-site inspection that 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 Bath Township/Noltensmeier open dump.

Michelle E. Cozadd
Michelle E. Cozadd

Subscribed and Sworn To before me
This 5th day of July, 2006

Charlene K. Powell



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Mason LPC#: 1258015001 Region: 5 - Springfield
 Location/Site Name: Bath Township/Noltensmeier
 Date: 06.20.06 Time: From 9:10 am To 9:30 am Previous Inspection Date: 09.29.05
 Inspector(s): Michelle Cozadd & Charlie King Weather: 75°F and partly sunny
 No. of Photos Taken: # 10 Est. Amt. of Waste: 10 yds³ Samples Taken: Yes # No X
 Interviewed: Lois Noltensmeier Complaint #: C-05-127-C

Responsible Party Mailing Address(es) and Phone Number(s):	Lois Noltensmeier 10267 County Road 200N Chandlerville, IL 62627 217.458.2888	Allen Noltensmeier 10267 County Road 200N Chandlerville, IL 62627 217.458.2100
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	SECTION	DESCRIPTION	VIO
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	X
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	X
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	
4.	12(d)	CREATE A WATER POLLUTION HAZARD	
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	X
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	
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	
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	X
	(2)	Scavenging	
	(3)	Open Burning	X
	(4)	Deposition of Waste in Standing or Flowing Waters	
	(5)	Proliferation of Disease Vectors	
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	

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

Informational Notes

- [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
- 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
MEMORANDUM

DATE: June 23, 2006
TO: DLPC/Division File
FROM: Michelle Cozadd, DLPC/FOS Springfield Region
SUBJECT: LPC #1258015001 – Mason County
Bath Township/Noltensmeier
FOS File

On June 20, 2006, I conducted a follow-up inspection at the above referenced site from about 9:10 am to 9:30 am. I was accompanied by Mr. Charlie King, DLPC/FOS. Ten (10) digital photographs were taken and the weather conditions were partly sunny with an air temperature of approximately 75°F. Ms. Lois Noltensmeier was interviewed briefly at the start of the inspection.

The attached photos #001 through #006 show the used oil contaminated gravel and soil along the edge of the parking lot near the railroad ties. The large shed shown in the attached photo #010 appears to be used for vehicle maintenance operations. The used oil discarded on the ground is generated from Allen Noltensmeier's semi-trucking operation. Used oil contaminated soil and gravel were last previously observed during the September 29, 2005 inspection.

The clean up of the contaminated gravel and soil will result in what is called a special waste in Illinois. However, the Illinois Environmental Protection Act allows a generator of a nonhazardous, nonliquid waste that would otherwise be considered a special waste to self-certify that it is not a special waste. Pursuant to 22.48 of the Illinois Environmental Protection Act ("Act"), an industrial process waste or pollution control waste must be managed as a special waste *unless* the generator first certifies in a signed, dated, written statement that the waste is outside the scope of the categories listed in subdivision (1) of subsection (c) of Section 3.45 of the Act. All information used to determine that the waste is not a special waste is to be attached to the certification. The certification is effective from the date signed until there is a change in the generator, in the raw materials used, or in the process generating the waste. The certification is to be maintained by the certifying generator while effective and for at least three years following a change in the generator, a change in the raw materials used, or a change in or termination of the process generating the waste. A copy of the certification is to be provided upon request to the Illinois Environmental Protection Agency, the waste hauler, or the operator of the facility receiving the waste. If the cleanup waste generated from the removal of the oil contaminated soil and gravel qualifies as a nonspecial waste, it can be transported to a municipal landfill without having an Illinois EPA manifest accompany it, and the hauler does not have to be an Illinois EPA permitted special waste hauler.

Two burn barrels outdoors on the south side of the large shed are shown in the attached photo #007. The contents of the burn barrels included glass bottles, aluminum cans, and scrap metal

(see attached photos #008 and #009). Garbage is defined in Section 3.200 of the Act as waste resulting from the handling, processing, preparation, cooking, and consumption of food, and wastes from the handling, processing, storage, and sale of produce. Garbage cannot be open burned in the burn barrels. The Noltensmeier's are allowed to burn in a burn barrel domicile wastes such as paper, newspapers and junk mail generated from their "domicile" (i.e. their residence), but not garbage like aluminum cans, or plastic or glass food containers, or "trade waste" generated from Mr. Noltensmeier's business. No waste generated from their residence or business can be open dumped on the ground.

A site sketch and digital photograph photocopies accompany this narrative for the DLPC/Division File. Digital copies of the photographs will be provided to the responsible parties upon request.

cc: DLPC/FOS Springfield Region



DIGITAL PHOTOGRAPHS



Date: 20 June 2006
Time: 9:18 am
Direction: SW
Photo by: M. Cozadd
Exposure #: 001
Comments: Oil
contaminated gravel and
soil



Date: 20 June 2006
Time: 9:19 am
Direction: SW
Photo by: M. Cozadd
Exposure #: 002
Comments: Oil
contaminated gravel and
soil

File Names: 1258015001~06202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 20 June 2006
Time: 9:19 am
Direction: W
Photo by: M. Cozadd
Exposure #: 003
Comments: Oil
contaminated gravel and
soil



Date: 20 June 2006
Time: 9:19 am
Direction: E
Photo by: M. Cozadd
Exposure #: 004
Comments: Oil
contaminated gravel and
soil

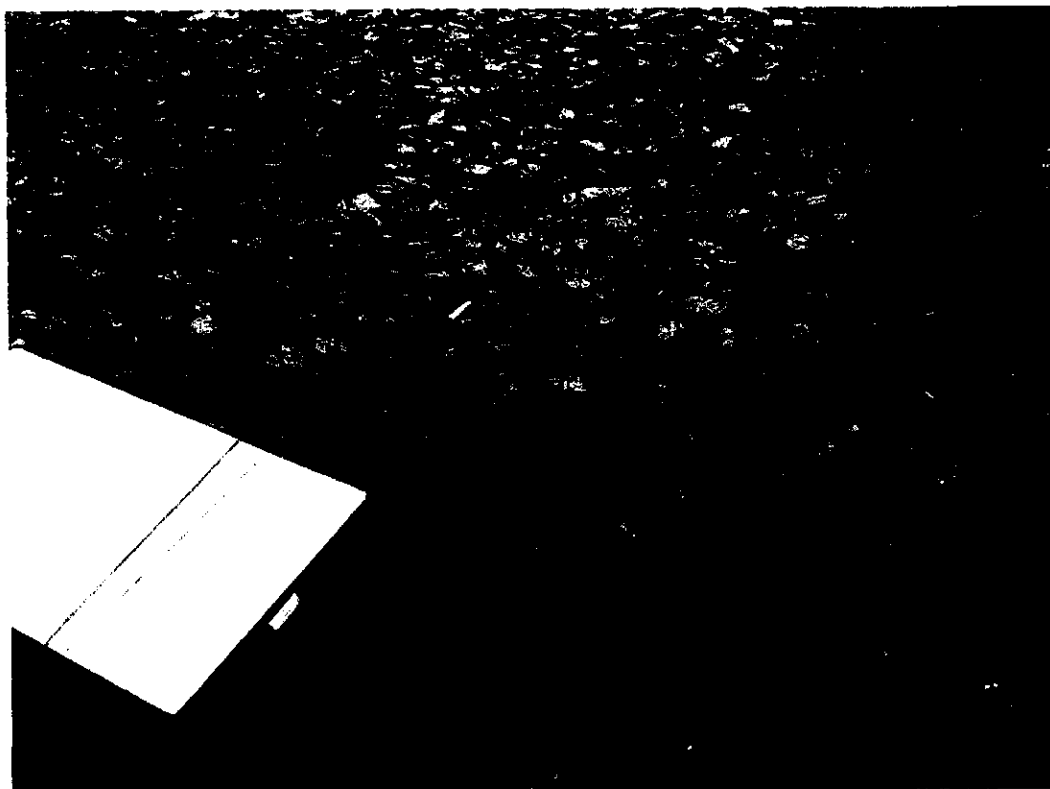
File Names: 1258015001~06202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 20 June 2006
Time: 9:19 am
Direction: E
Photo by: M. Cozadd
Exposure #: 005
Comments: Oil
contaminated gravel and
soil

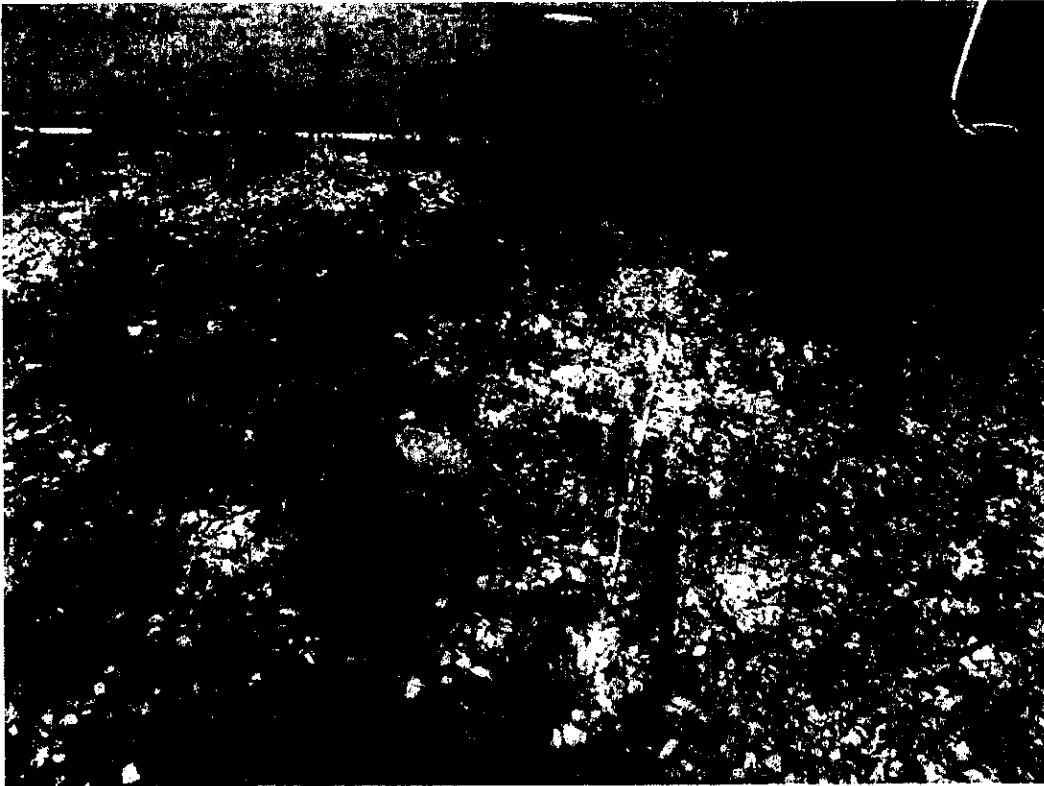


Date: 20 June 2006
Time: 9:20 am
Direction: E
Photo by: M. Cozadd
Exposure #: 006
Comments: Close-up of
oil contaminated gravel
and soil

File Names: 1258015001~06202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 20 June 2006
Time: 9:20 am
Direction: W
Photo by: M. Cozadd
Exposure #: 007
Comments: Oil contaminated gravel and soil and two burn barrels. Blue drum shown in photograph is empty.



Date: 20 June 2006
Time: 9:21 am
Direction: NW
Photo by: M. Cozadd
Exposure #: 008
Comments: Close-up of ashes and charred waste materials in the first of two burn barrels located near the shed

File Names: 1258015001~06202006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 20 June 2006
Time: 9:21 am
Direction: NW
Photo by: M. Cozadd
Exposure #: 009
Comments: Close-up of ashes and charred waste materials in the second of two burn barrels located near the shed

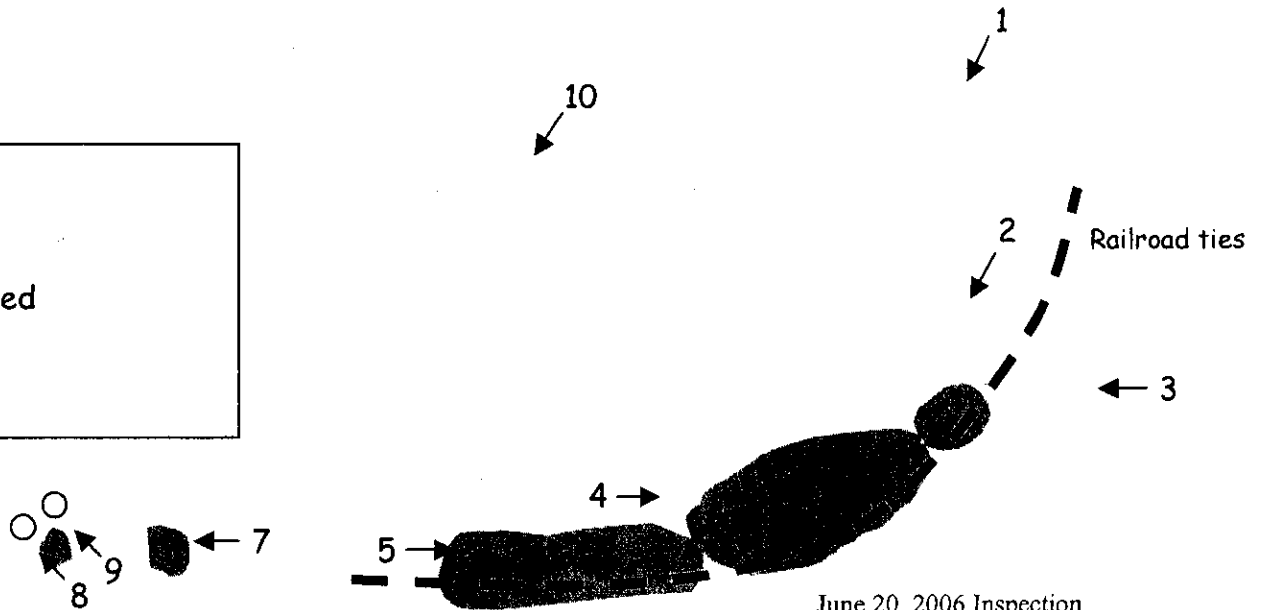
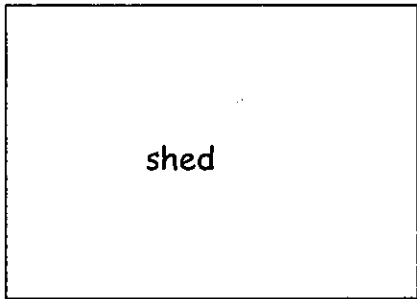
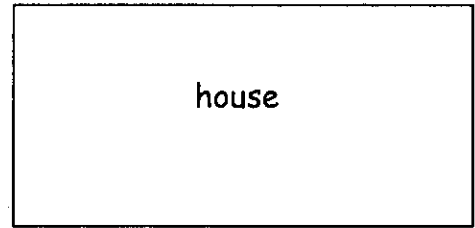
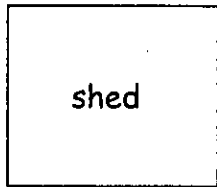
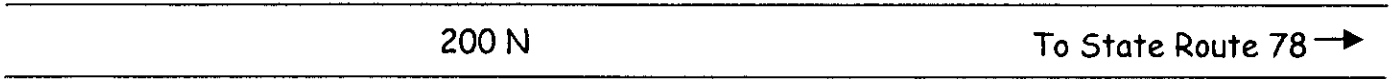
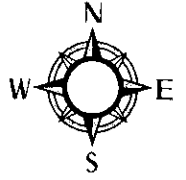


Date: 20 June 2006
Time: 9:22 am
Direction: SW
Photo by: M. Cozadd
Exposure #: 010
Comments: Overview of site

File Names: 1258015001~06202006-[Exp. #].jpg



SITE SKETCH



June 20, 2006 Inspection
Measurements Approximate
Direction of Photo →
Photo Directions Approximate
Not to Scale
○ Burn barrel
● Oil contaminated gravel and soil

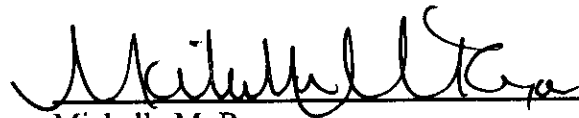
PROOF OF SERVICE

I hereby certify that I did on the 1st day of August, 2006 send by messenger mail to the Springfield Regional Office of the Illinois EPA, a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST for hand delivery

To: Allen and Lois Noltensmeier
1027 County Road 200N,
Chandlerville, Illinois 62627

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

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



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
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