

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

County of DuPage, )  
 )  
 Complainant, )  
 )  
 )  
 )  
 v. ) AC 08-13  
 ) DP-AC-08-01  
 Margarito Sotelo, )  
 )  
 )  
 Respondent. )

**RECEIVED**  
CLERK'S OFFICE  
  
FEB 13 2008  
  
STATE OF ILLINOIS  
Pollution Control Board

**NOTICE OF FILING**

**To:** Margarito Sotelo, 31W152 Lee Rd., West Chicago, IL 60185

**PLEASE TAKE NOTICE** that on the 11th day of February, 2008, the attached Proof of Service was forwarded by U.S. Mail for filing to the Clerk of the Illinois Pollution Control Board, Chicago, Illinois.

JOSEPH E. BIRKETT  
DuPage County State's Attorney  
Attorney No. 50000  
503 N. County Farm Rd.  
Wheaton, IL 60187  
630-407-8200

*Mary A. Fleming*  
\_\_\_\_\_  
MARY A. FLEMING  
Assistant State's Attorney

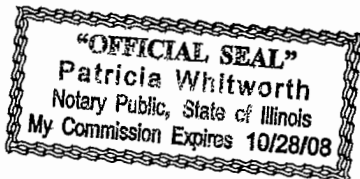
**CERTIFICATE OF SERVICE**

The undersigned being first duly sworn upon oath state that I served this notice by mailing a copy on February 11, 2008 to each person to whom it is directed and depositing the same in the U.S. Mail at Wheaton, Illinois with the proper postage prepaid.

*Patricia Whitworth*  
\_\_\_\_\_

Subscribed and sworn to before me  
on February 11, 2008.

*Patricia Whitworth*  
\_\_\_\_\_  
Notary



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

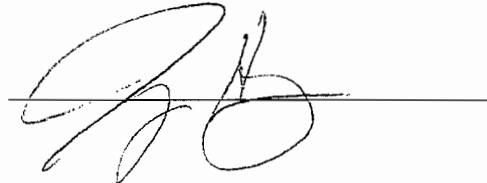
County of DuPage, )  
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FEB 13 2008  
STATE OF ILLINOIS  
Pollution Control Board

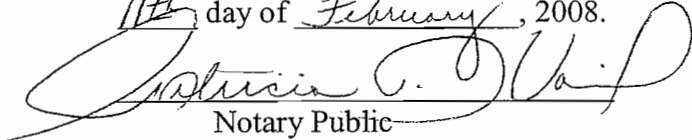
**PROOF OF SERVICE**

I, the undersigned, on oath state that I have served on the date of February 1, 2008, the attached APPEARANCE, NOTICE OF FILING, ADMINISTRATIVE CITATION, AFFIDAVIT and OPEN DUMP INSPECTION CHECKLIST by certified mail upon the following person:

Margarito Sotelo

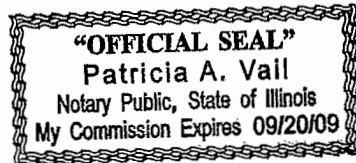


Subscribed and sworn to before me this  
11th day of February, 2008.



Notary Public

County of DuPage County  
503 N. County Farm Road  
Wheaton, IL 60187



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

JAN 29 2008

STATE OF ILLINOIS  
Pollution Control Board

County of DuPage, )  
)  
Complainant, )  
)  
)  
v. )  
)  
Margarito Sotelo, )  
)  
Respondent. )

AC 08 -13  
DP-AC-08-01

RECEIVED  
CLERK'S OFFICE

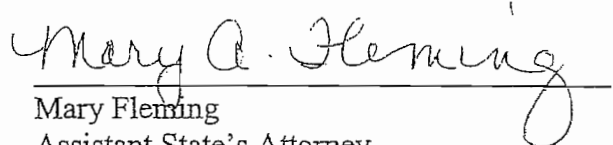
FEB 13 2008

STATE OF ILLINOIS  
Pollution Control Board

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of DuPage.

Respectfully submitted,

  
\_\_\_\_\_  
Mary Fleming  
Assistant State's Attorney

DATED: January 29, 2008

County of DuPage  
508 North County Farm Road  
Wheaton, IL 60187

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
ADMINISTRATIVE CITATION

RECEIVED  
CLERK'S OFFICE

JAN 29 2008

STATE OF ILLINOIS  
Pollution Control Board

County of DuPage, )  
 )  
 Complainant, )  
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 v. ) AC 08- 13  
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 Margarito Sotelo, )  
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RECEIVED  
CLERK'S OFFICE

FEB 13 2008

STATE OF ILLINOIS  
Pollution Control Board

NOTICE OF FILING

TO: Margarito Sotelo  
31W152 Lee Road  
West Chicago, IL 60185

PLEASE TAKE NOTICE that on this date the ADMINISTRATIVE CITATION,  
AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST were hand delivered to the Clerk  
of the Pollution Control Board of the State of Illinois.

Respectfully submitted,

*Mary A. Fleming*  
Mary Fleming  
Assistant State's Attorney

DATED: January 29, 2008

County of DuPage  
508 North County Farm Road  
Wheaton, IL 60187  
(630) 407-8200

RECEIVED  
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 29 2008

STATE OF ILLINOIS  
Pollution Control Board

County of DuPage, )  
)  
Complainant, )  
)  
v. ) AC 08 - 13  
)  
Margarito Sotelo, )  
)  
Respondent. )

ADMINISTRATIVE CITATION

<u>Violation:</u> 415 ILCS 5/21(p)(1)	<u>Civil Penalty</u> \$1,500.00 TOTAL: \$1,500.00
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JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1996), specifically 415 ILCS 5/31.1.

FACTS

1. Complainant, County of DuPage, is a unit of local government to which the Illinois Environmental Protection Agency has delegated authority to issue administrative citations pursuant to Section 4(r) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/4(r) (2007). DuPage County is thus a "delegated unit" and may issue administrative citations under 35 Ill. Adm. Code 108.200.

2. The Respondent, Margarito Sotelo, is the present occupant and in control and possession of the property at 31W152 Lee Road; West Chicago, located in the County of DuPage, State of Illinois.

3. The property is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code #0438075018. The facility is known to the County as the Margarito Sotelo site.

4. The Respondent has occupied, controlled and/or operated the facility at all relevant times hereto.

5. On December 3, 2007, Joy Hinz, Field Inspector for DuPage County as delegated by the Illinois Environmental Protection Agency, inspected the property. A true and correct copy of the inspection report, along with Ms. Hinz's affidavit, are attached hereto and made a part hereof.

6. Based upon direct observations made by Ms. Hinz during the course of her inspection, DuPage County has determined that Respondent violated the Act as follows:

- a. Respondent caused or allowed the open dumping of waste in a manner resulting in litter, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2007).

7. Based upon the foregoing facts, under Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), 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 civil penalty of One Thousand Five Hundred Dollars (\$1,500.00).

#### **Notices and Instructions to Respondent**

1. **You must pay the civil penalty set forth above unless you contest this Administrative Citation.** The following paragraphs contain payment instructions and more information about contesting this Administrative Citation.
2. To pay the civil penalty (and any other amounts due) send two (2) checks or money orders with the attached Remittance Form, one check in the amount of Seven Hundred and Fifty Dollars payable to DuPage County and the second

check or money order in the amount of Seven Hundred and Fifty Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County  
Department of Economic Development and Planning  
Regulatory Services Division  
421 North County Farm Road  
Wheaton, IL 60187

To ensure that you receive timely and proper credit for your payment, complete the attached Remittance Form and include it with your payment.

3. You may contest this Administrative Citation by filing a Petition for Review, including a Notice of Filing, Certificate of Service, and Appearance with the Illinois Pollution Control Board ("Board").
4. **Any Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation on you. The Board will not review the Administrative Citation if the Petition for Review is not filed within this time.**
5. The Petition for Review must be filed with:

Clerk of the Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph Street  
Suite 11-500  
Chicago, IL 60601

A copy of the Petition for Review must be served on the County of DuPage at the following address:

County of DuPage  
Office of the State's Attorney, Civil Division  
508 North County Farm Road  
Wheaton, IL 60187

6. The contents of a Petition for Review and the procedures to be followed are governed by the Board's procedural rules. Copies may be obtained from the Clerk of the Board at the address above, by calling the Board at (312) 814-3620, or from the Board's website at:

<http://www.ipcb.state.il.us/rules/procedural/procedural.htm>

7. If you do not contest this Administrative Citation by filing a petition for review with the Board within the allotted time, the Board will enter an order finding that you committed the violations alleged above imposing the statutory civil penalty set forth above. See Section 31.1(d) of the Act, 415 ILCS 5/31.1(d) and 35 Ill. Adm. Code 108.500(a).
8. If you contest this Administrative Citation by filing a timely petition for review with the Board, the Board will hold a hearing. The Board's procedural rules have more information on hearings; see 35 Ill. Adm. Code Parts 101 and 108.
9. If the Board finds after the hearing that you committed a violation as alleged above, you will be assessed the hearing costs incurred by the County of DuPage and the Board. Hearing costs are assessed in addition to the statutory civil penalty for the violations. If the Board finds after the hearing that you did not commit a violation as alleged above, or that the violation resulted from uncontrollable circumstances, you will not be assessed hearing costs and you will not have to pay a civil penalty.
10. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, interest on the amount due will be assessed against you from the date payment is due and including the date that payment is received.
11. If any civil penalty and/or hearing costs are not paid within the time set by the Board in its final order, the DuPage County State's Attorney's Office may initiate court proceedings against you to collect the amount due, plus any interest accrued. In that event, you may also be liable for court costs.

DATE: January 29, 2008

County of DuPage  
Office of the State's Attorney

Mary A. Fleming  
Assistant State's Attorney



**REMITTANCE FORM**

County of DuPage, )  
 )  
 Complainant, )  
 )  
 v. ) AC  
 ) DP-08-01  
 Margarito Sotelo, )  
 )  
 Respondent. )

FACILITY: Margarito Sotelo Site

COUNTY: DuPage

DATE OF INSPECTION: December 3, 2007

SITE CODE: 0438075018

CIVIL PENALTY: \$1,500.00

Date Remitted \_\_\_\_\_

SS/FEIN # \_\_\_\_\_

Signature \_\_\_\_\_

**Instructions**

Enter the date of your remittance, your Federal Employee Identification Number (FEIN) (or social security number (SSN) if an individual) and sign this Remittance Form. Print the name of the person signing this Remittance Form and that person's title, if applicable.

Send two (2) checks or money orders with the attached Remittance Form, one check in the amount of Seven Hundred and Fifty Dollars payable to DuPage County and the second check or money order in the amount of Seven Hundred and Fifty Dollars payable to the Illinois Environmental Protection Agency to:

DuPage County  
Department of Economic Development and Planning  
Regulatory Services Division  
421 North County Farm Road  
Wheaton, IL 60187

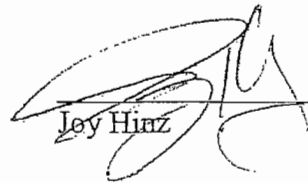
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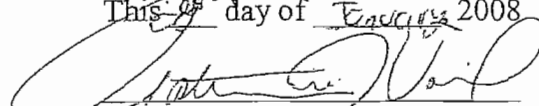
**AFFIDAVIT**

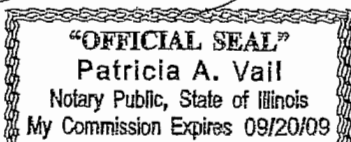
Affiant, Joy Hinz, being duly sworn, voluntarily deposes and states as follows:

1. At all times relevant to the above-captioned Administrative Citation, Affiant was employed as an inspector by the County of DuPage, Department of Economic Development and Planning.
2. On December 3, 2007 between 10:24 a.m. and 10:28 a.m., respectively, Affiant conducted an inspection of the property located at 31W152 Lee Road; West Chicago, Illinois.
3. Affiant conducted an onsite inspection, which included walking around the property and photographing the site.
4. In connection with this inspection, Affiant completed the Inspection Report appended to and made part of the above-captioned Administrative Citation, which is an accurate record of Affiant's observations and factual conclusions with respect to the site. This December 3, 2007 inspection report references Affiant's September 17, 2007 inspection which is also an accurate record of Affiant's observations and factual conclusions with respect to the site on September 17, 2007.

  
Joy Hinz

Subscribed and sworn before me  
This 3<sup>rd</sup> day of February 2008





State of Illinois  
Environmental Protection Agency  
Narrative Inspection Report Document

County: DuPage County

Inspector: Joy Hinz

Location: Margarito Sotelo Property

Date: September 17, 2007

Site No: 0438075018

Time: 2:19 – 2:24 p.m.

Weather Conditions: 64 degrees Fahrenheit. Mostly cloudy. Winds south at 13 mph.  
Conditions obtained from The Weather Channel electronic mail

**Estimated Amount of Waste: 4 cubic yards**

General Remarks

I conducted this inspection in response to a complaint that waste was being open burned at the site. After arriving, I walked to the house where I attempted to locate an owner. A tenant answered the door. I explained why I was on site. I then walked behind the house where the burn pile was located.

The pile was approximately 6 feet in diameter. It contained bottles, cardboard, furniture, foam cushion, carpet, textiles, aluminum cans, metal, roofing shingles, carpeting and other miscellaneous waste (Photo 1 and Photo 2). The pile of ashes was about one foot in height. The bottles, aluminum cans, metal waste and some of the other debris was partially burned (Photo 3 and Photo 4).

After reviewing the pile, I exited the site.

State of Illinois  
Environmental Protection Agency  
Site Sketch

County: DuPage County  
Inspector: Joy Hinz  
Location: Margarito Sotelo Property

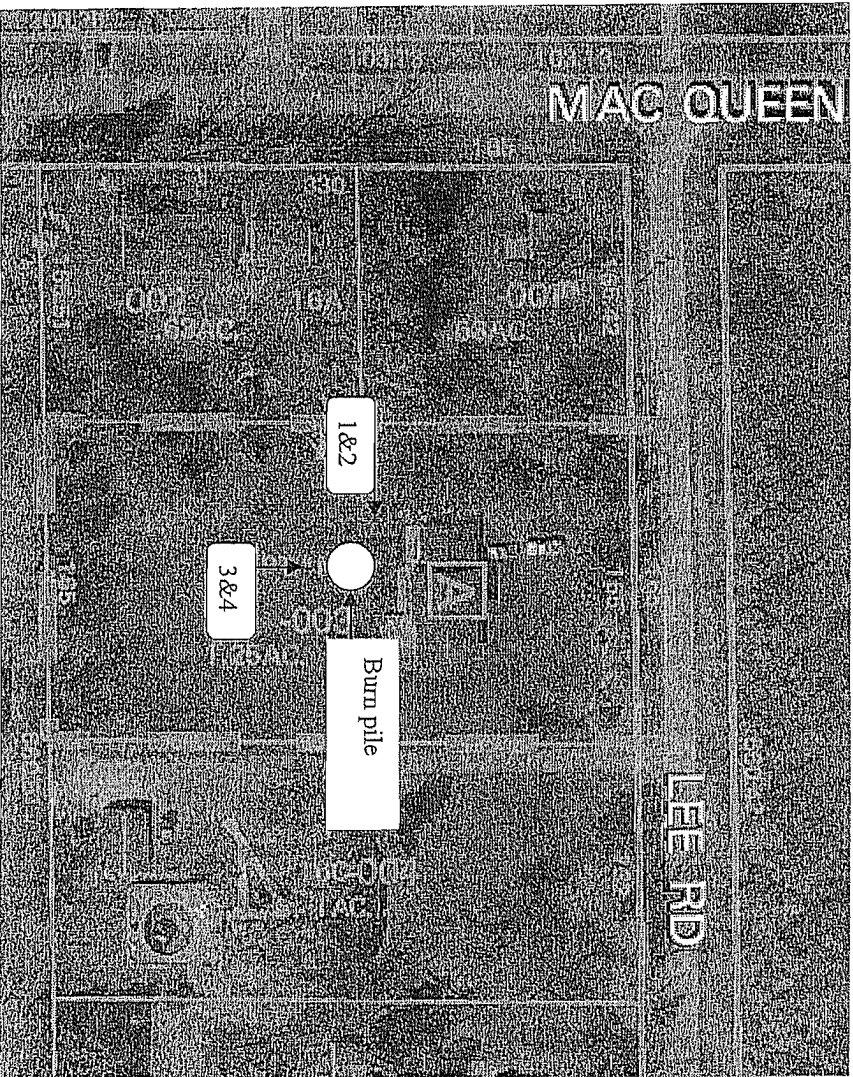
Date: September 17, 2007  
Site No: 0438075018  
Time: 2:19 – 2:24 p.m.

Not drawn to scale



Indicates number and approximate direction of photograph

North ↑



Photograph 1

Photographed by: J. Hinz

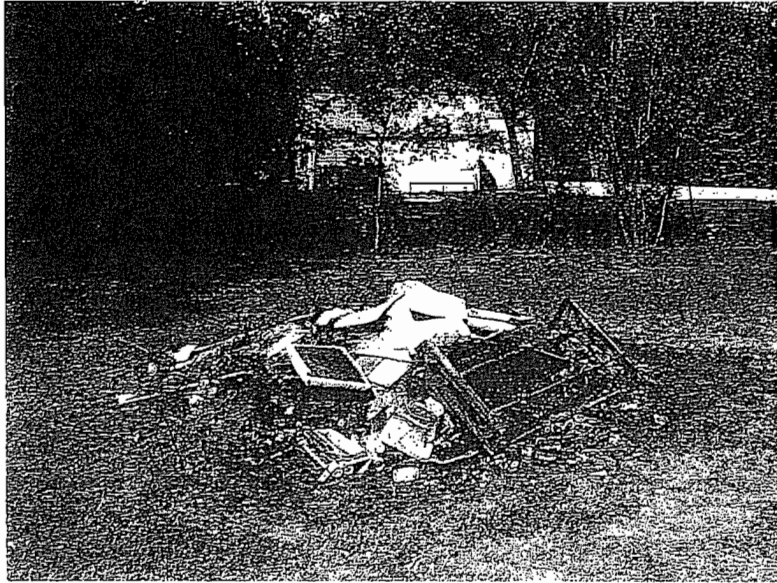
Date: Sept. 17, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 2:22 p.m.

Comments: Taken facing  
westward showing the burn pile.



Photograph 2

Photographed by: J. Hinz

Date: Sept. 17, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 2:22 p.m.

Comments: Taken facing  
westward showing the cardboard,  
bottles and foam cushion on top of  
the burn pile.



Photograph 3

Photographed by: J. Hinz

Date: Sept. 17, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 2:22 p.m.

Comments: Taken facing southward showing the partially burned furniture, aluminum cans, bottles and other debris.



Photograph 1

Photographed by: J. Hinz

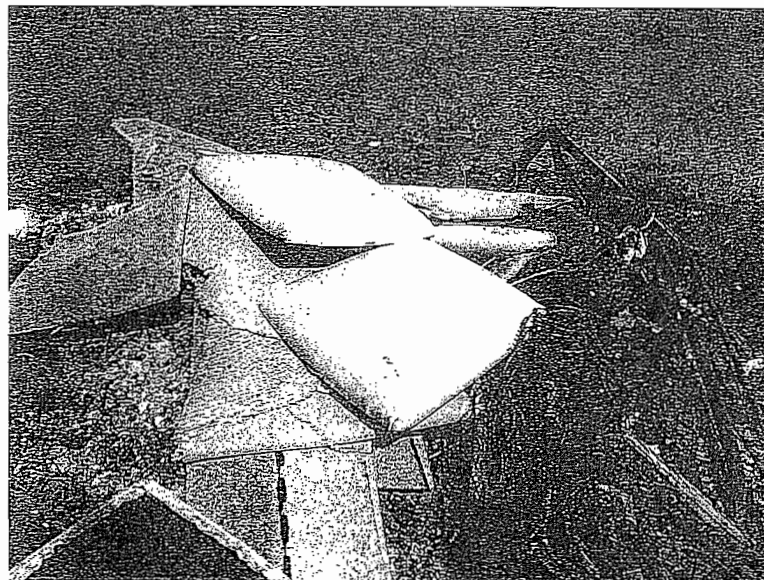
Date: Sept. 17, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 2:24 p.m.

Comments: Taken facing southward showing the foam cushions, carpet, roofing shingles and furniture on top of the burn pile.



State of Illinois  
Environmental Protection Agency  
Narrative Inspection Report Document

County: DuPage County  
Inspector: Joy Hinz  
Location: Margarito Sotelo Property

Date: December 3, 2007  
Site No: 0438075018  
Time: 10:24 – 10:28 a.m.

Weather Conditions: 21 degrees Fahrenheit. Sunny. Winds west northwest at 16 mph. Humidity 62%. Conditions obtained from The Weather Channel electronic mail

**Estimated Amount of Waste: 1 cubic yards**

General Remarks

*Pre-Inspection Notes: An Administrative Citation Warning Notice was issued as a result of an inspection completed on September 17, 2007. The Notice cited alleged violations for open dumping and open burning. I received a telephone call from Mr. Sotelo on October 15<sup>th</sup>. He agreed to remove all the waste and ashes.*

I conducted this inspection to determine if the site had been cleaned. After arriving, I walked to the house where I met with Mr. Sotelo. I explained that I was on site to see if they had removed all waste and ash remnants from the open burning. I reviewed the area and found that the waste I had previously observed was not on the site. The majority of the ashes had been removed. However, vinyl flooring was now in place in the burn pile.

After inspecting the site, I informed Mr. Sotelo that the vinyl flooring and all ash needed to be removed. I asked that he remove the waste within one week.

I returned to the site on December 20, 2007 and the vinyl flooring was still open dumped on the site. I then exited the site.

State of Illinois  
Environmental Protection Agency  
Site Sketch

County: DuPage County  
Inspector: Joy Hinz  
Location: Margarito Sotelo Property

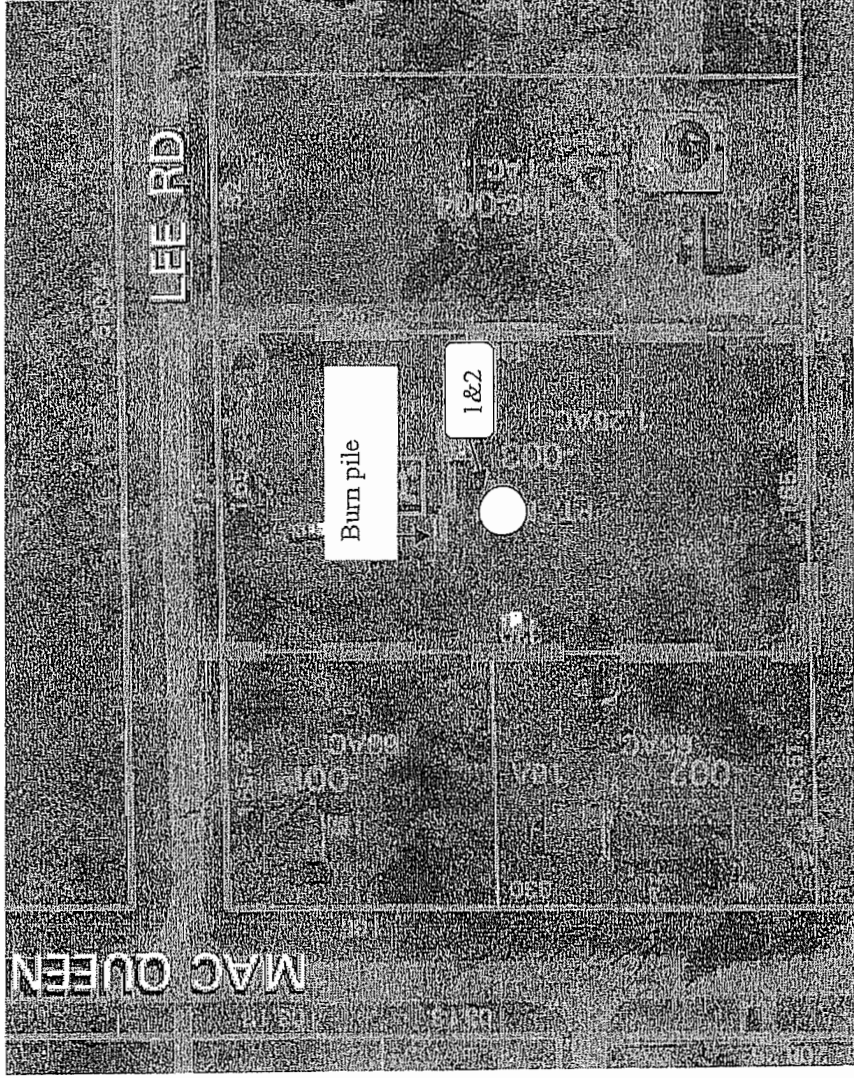
Date: December 3, 2007  
Site No: 0438075018  
Time: 10:24 – 10:28 a.m.

Not drawn to scale

North ↑



Indicates number and approximate direction of photograph





Photograph 1

Photographed by: J. Hinz

Date: December 3, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 10:26 a.m.

Comments: Taken facing westward  
showing the burn pile.



Photograph 2

Photographed by: J. Hinz

Date: December 3, 2007

Location: Sotelo Property  
31 W152 Lee Rd.  
West Chicago, IL

Site No: 0438075018

Time: 10:26 a.m.

Comments: Taken facing westward  
showing the vinyl flooring in the burn  
pile.

