



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6026

PAT QUINN, GOVERNOR

John J. Kim, Interim Director

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

RECEIVED
CLERK'S OFFICE
APR 06 2012
STATE OF ILLINOIS
Pollution Control Board

April 4, 2012

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

AC12-41 ORIGINAL
RETURN TO CLERK'S OFFICE

Re: Illinois Environmental Protection Agency v. Louis K. Niemeyer
IEPA File No. 70-12-AC; 0298060004—Coles County

Dear Mr. Therriault:

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,

Michelle M. Ryan
Assistant Counsel

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,)

Complainant,)

v.)

LOUIS K. NIEMEYER,)

Respondent.)

AC

12-41

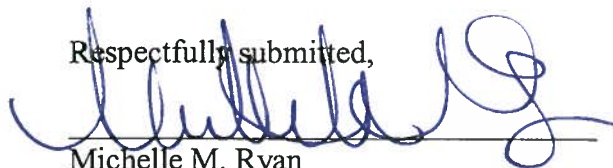
(IEPA No. 70-12-AC)

NOTICE OF FILING

To: Louis K. Niemeyer
1321 S. 19th Street
Mattoon, IL 61938

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
Assistant Counsel

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

Dated: April 4, 2012

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LOUIS K. NIEMEYER,)
)
)
)
)
Respondent.)

AC 12-41
(IEPA No. 70-12-AC)

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 (2010).

FACTS

1. That Louis K. Niemeyer is the current owner ("Respondent") of a facility located at 1321 South 19th Street, Mattoon, Coles County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Mattoon/Niemeyer, Louis.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0298060004.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on February 16, 2012, Jennifer O'Hearn of the Illinois Environmental Protection Agency's ("Illinois EPA") Champaign 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.

5. That on 4-4-12, Illinois EPA sent this Administrative Citation via Certified Mail No. 7009 2820 0001 7496 0759.

VIOLATIONS

Based upon direct observations made by Jennifer O’Hearn during the course of her February 16, 2012 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) (2010).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris: or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 Three Thousand Dollars (\$3,000.00). 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 April 30, 2012, 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 (2010), 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) (2010), 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 (2010). 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.



John J. Kim, Interim Director
Illinois Environmental Protection Agency

Date: 4/2/2012

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

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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LOUIS K. NIEMEYER,)
)
)
)
)
Respondent.)

AC 12-41
(IEPA No. 70-12-AC)

FACILITY: Mattoon/Niemeyer, Louis
SITE CODE NO.: 0298060004
COUNTY: Coles
CIVIL PENALTY: \$3,000.00
DATE OF INSPECTION: February 16, 2012

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

RECEIVED
CLERK'S OFFICE

APR 06 2012

STATE OF ILLINOIS
Pollution Control Board

AFFIDAVIT

IN THE MATTER OF:)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
)
Louis K. Niemeyer,)
Respondent,)

IEPA DOCKET NO.

AC12-41

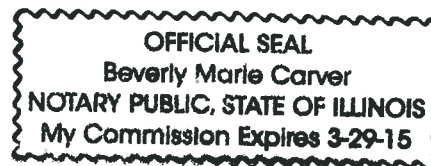
Affiant, Jennifer O'Hearn, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On February 16, 2012, between 12:38 P.M. and 1:25 P.M., Affiant conducted an inspection of the site in Coles County, Illinois, known as the Louis Niemeyer, Illinois Environmental Protection Agency Site No. 0298060004.
3. Affiant inspected said Louis Niemeyer site by an on-site inspection, which included walking 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 the Louis Niemeyer site, located at 1321 S. 19th Street, Mattoon, in Coles County, Illinois site.

Jennifer O'Hearn
Jennifer O'Hearn

Subscribed and Sworn to before me
this 9th day of March,
2012.

Beverly Marie Carver
Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Coles LPC#: 0298060004 Region: 4 - Champaign
 Location/Site Name: Mattoon/Niemeyer, Louis
 Date: 02/16/2012 Time: From 12:38PM To 1:25PM Previous Inspection Date: 05/03/2011
 Inspector(s): Jennifer O'Hearn Weather: Partly cloudy, 60 degrees, 5-10 mph wind out of southwest
 No. of Photos Taken: # 8 Est. Amt. of Waste: 385(- yds³ 25) Samples Taken: Yes # _____ No
 Interviewed: Louis Niemeyer Complaint #: C11-046-CH
 Latitude: 39.47163 Longitude: -88.37844 Collection Point Description: Site Entrance - +/- 40 ft.
 (Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS - Garmin GPSmap 76S

Responsible Party
 Mailing Address(es)
 and Phone Number(s):
 Louis Niemeyer
 1321 S. 19th St.
 Mattoon, IL 61938
 217/258-8379(h); 217/962-0533(c)

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STATE OF ILLINOIS
Pollution Control Board

	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 # 0298060004

Inspection Date: 02/16/2012

	(7)	Deposition of: (i) General Construction or Demolition Debris as defined in Section 3.160(a); or (ii) Clean Construction or Demolition Debris as defined in Section 3.160(b)	<input checked="" type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
10.	55(k)	NO PERSON SHALL:	
	(1)	Cause or Allow Water to Accumulate in Used or Waste Tires	<input type="checkbox"/>
	(4)	Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
11.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
12.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
13.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
14.	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"/>
15.	815.201	FAILURE TO FILE AN INITIAL FACILITY REPORT WITH THE AGENCY TO PROVIDE INFORMATION CONCERNING LOCATION AND DISPOSAL PRACTICES OF THE FACILITY.	<input type="checkbox"/>
OTHER REQUIREMENTS			
16.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
17.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

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 and subsection (k) of Section 55 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
Bureau of Land ♦ Field Operations Section ♦ Champaign

LPC#0298060004—Coles County
Mattoon/Niemeyer, Louis
FOS File
Inspector: Jennifer O’Hearn
February 16, 2012 Inspection
Complaint #C11-046-CH

OPEN DUMP REINSPECTION

Site History:

The original inspection of the site was conducted on November 10, 2010. The site exhibited evidence of open dumping of asphalt, concrete, brick, dimensional lumber, etc. The waste was piled up in various locations over much of the property which is a large partially abandoned industrial lot. An ACWN was sent on December 15, 2010. A response was received on December 28, 2010. An email with photos of the dimensional lumber pile waste inside of roll-off containers was received on April 1, 2011. A re-inspection was conducted on May 3, 2011 in which the pile of dimensional lumber and other non-clean demolition debris was observed to be removed from the site. The other piles of mainly asphalt, concrete and brick, etc. still remained at the site. On May 5, 2011 receipts were received for the roll-off containers that were the subject of the April 1, 2011 email’s photos.

Assessor’s Office GIS website

I went to the Coles County Tax Assessor’s Office GIS website to confirm ownership for the site. The property was listed under Parcel # 07-1-00847-000 and Parcel # 07-1-00848-000. Parcel # 07-1-00847-000 is listed as taxes paid to 8010 Louis Lane, Mattoon, Illinois, 61938 for a 24.72 acre parcel located at 1321 S. 19th St., in Mattoon, Illinois in Section 23 Range Block 7 Legal TWP 12. Parcel # 07-1-00848-000 is listed as taxes paid in care of, “(%)”, Don Hance, 1013 S. 19th St., Mattoon, Illinois, 61938 for a 0.94 acre parcel located at 1013 S. 19th St., in Mattoon, Illinois in Section 23 Range Block 7 Legal TWP 12.

Open Dump Inspection Narrative

Jennifer O’Hearn of DLPC/FOS Champaign Regional Office conducted a routine open dump inspection of the above referenced facility on February 16, 2012. This inspection was conducted to determine the regulatory status and evaluate compliance with the Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The weather was partly cloudy, with the temperature around 42 degrees, and a 10-15 mph wind out of the west. Eight photos and no samples

were taken. No one was present to represent the property owner. The site is located at 1321 S. 19th St. in the city of Mattoon in Coles County, Illinois. Waste is scattered around the site.

I arrived at about 12:38 P.M. and parked inside the entrance off of 19th Street on the northeast corner of the site. After exiting my vehicle I walked to the southeast about twenty-five yards for a view of the asphalt piles from the east just inside the entrance as seen in previous two inspections with no apparent change (photo 1). I walked about 250 yards to the southwest and viewed the concrete and brick pile area from the northeast as seen in the previous two inspections, with no apparent change (photo 2). Next, I walked about twenty-five to thirty yards to the northwest for another view of the concrete and brick pile area as seen in previous two inspections with no apparent change (photos 3 & 4). Then I walked around forty-five to fifty yards to the southwest for view of the concrete and brick pile area from the west, as seen in previous two inspections with no apparent change (photo 5). I then walked about thirty to thirty-five yards to the southeast and viewed the concrete and brick pile area from the southwest, as seen in previous two inspections with no apparent change (photo 6). Next I walked about twenty-five yards to the southeast and observed the south side of the concrete and brick pile area where painted brick was observed in a pile; the area was as in the previous two inspections with no apparent change (photo 7). Finally, I walked around the east side of the southernmost pile of concrete around twenty-five yards for a view of the concrete and brick pile area as seen in previous two inspections still with no apparent change; I observed metal and dimensional lumber on the south side of this pile (photo 8). After completing my inspection of the site, I exited to the northeast through the interior gated entrance and walked to my vehicle, for a total of about 275 yards, entered my vehicle and exited through the exterior, northeast gated entrance off of 19th Street. I left the site at 1:25 P.M.

Interviews-Louis Kim Niemeyer, owner of property

On February 28, 2012, I called Mr. Niemeyer on his cell phone at 217/962-0533. I noticed that there was a lot of background noise. I asked if I was speaking with Louis Niemeyer, and explained that I was Jennifer O'Hearn calling from the Illinois Environmental Protection Agency. He said yes. I said that I inspected the site in Mattoon with asphalt, brick and concrete piles. I asked what his plans were for the material. He said that he planned on using it to redo the parking lot with brick as a base and put blacktop on top of it. I asked when he planned on doing so if it might be done in the next year. He said yes that he has some money set aside for it, that he just has not had a chance to do it yet. I asked where the area would be paved and he said he was going to make a road to where they are storing the black dirt and topsoil and make a landing to turn around on. He said that he also planned on putting some back on the west end of the asphalt area where it is low. I asked if the blacktop that he was going to put on top of the brick was fresh new asphalt or the old reclaimed asphalt. He said the reclaimed asphalt pavement. He then asked if he could call me back, because they were in the middle of tearing a building down. I said that I should mention that I think they want you to put new pavement over the brick not the old RAP. He said "oh" and asked if he could call me

back again. I said okay and he asked who he was talking to and I said Jennifer O'Hearn and he said, Jennifer, okay.

On March 2, 2012 Mr. Niemeyer called me back. He said that the person that was going to build the road and fill in his parking lot using the construction and demolition debris is Monte Swearingen. He asked me if I was familiar with Monte. I said that I am familiar with Duane and David Swearingen. Mr. Niemeyer said that Monte is Duane's brother and that he is a little different than his brother. I said that can happen in families. I said that the law states that 25% of reclaimed asphalt pavement and concrete must be used as fill or otherwise used every year and that it all would have to be gone at the end of four years. He said that the west end of the pile of asphalt part is gone. He said that both ends were used on the parking lot onsite. I asked what percent of the asphalt pile did he estimate had been used and he said probably 10-15%. He said that the concrete and brick had not been touched yet. He said that he was going to have Matchbox haul the concrete to Champaign to be recycled. He said that they don't haul it unless they are going to Champaign with an empty truck to pick something up in Champaign. He said that they would bring a load back later. I said that I was not sure how the recyclers worked, if you could leave it, or if you had to take your recycled concrete with you. I said that most of what is at the site now is clean construction and demolition debris, except for the painted brick on the south side of the concrete and brick pile on the south side of the concrete and brick area. I said that on the south side of the large brick pile on the north side of the concrete and brick area, there was metal and dimensional lumber observed in the pile. I said that it did not look like any new material had been brought into the site since the earlier inspections. He said no that he learned his lesson and has not brought any more into the site. He said that if anything new had been brought in it would have had to been someone sneaking into the site and dumping it. I said hopefully the fact that most of the material is clean and that some of the asphalt pile has been used will keep my boss happy for now.

In summary, no waste has been removed from the site since the previous inspection. Remaining at the site is an asphalt pile at the north end of the property estimated at 200 cubic yards in size. In the second interview with Mr. Niemeyer he stated that 10-15 % of the asphalt had already been used to fill in the low, west end of the parking lot on which it sits. This would amount to around 25 yards of the original estimated 225 cubic yards of asphalt. Also remaining at the site is concrete and brick piles in the west, central portion of the site estimated at about 185 cubic yards in size. A total of about 385 cubic yards of apparent mostly clean, demolition debris with a little bit of painted brick, metal and dimensional lumber, remains at the site.

As a reminder, according to Section 3.160 of the Illinois Environmental Protection Act, "*To the extent allowed by federal law, clean construction or demolition debris shall not be considered "waste" if it is (i) used as fill material outside of a setback zone if the fill is placed no higher than the highest point of elevation existing prior to the filling immediately adjacent to the fill area, and if covered by sufficient uncontaminated soil to support vegetation within 30 days of the completion of filling or if covered by a road or*

structure...". If material at the site is clean and uncontaminated including unpainted and without chemical contaminants, for example, it may be used for a sub-base for a road on site, but not for the actual road itself.

Apparent violations observed during this inspection:

Upon reinspection of the site on February 16, 2012 the following outstanding violations remained:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

- #1 Pursuant to Section 21(a) of the Act, no person shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **evidence of open dumping of waste was observed during the inspection.**

- #2 Pursuant to Section 21(d)(1) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit

A violation of Section 21(d)(1) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation without a permit was observed during the inspection.**

- #3 Pursuant to Section 21(d)(2) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Pollution Control Board.

A violation of Section 21(d)(2) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation in violation of regulations adopted by the Board was observed during the inspection.**

- #4 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was stored and/or disposed of at this site which does not meet the requirements of the Act and of regulations and standards thereunder.**

- #5 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner which results in litter.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

- #6 Pursuant to Section 21(p)(7) of the Act, no one shall cause or allow the open dumping of any waste in a manner which results in deposition of general construction or demolition debris.

A violation of Section 21(p)(7) is alleged for the following reason: **waste was open dumped at this site resulting in deposition of general construction and demolition debris.**

35 Illinois Administrative Code. (Title 35: Environmental Protection, Subtitle G: Land Pollution, Chapter I: Pollution Control Board) [Regulations]

- #7 Pursuant to Section 812.101(a) of the Regulations, All persons, except those specifically exempted by Section 21(d) of the Act, shall submit to the Agency an application for a permit to develop and operate a landfill.

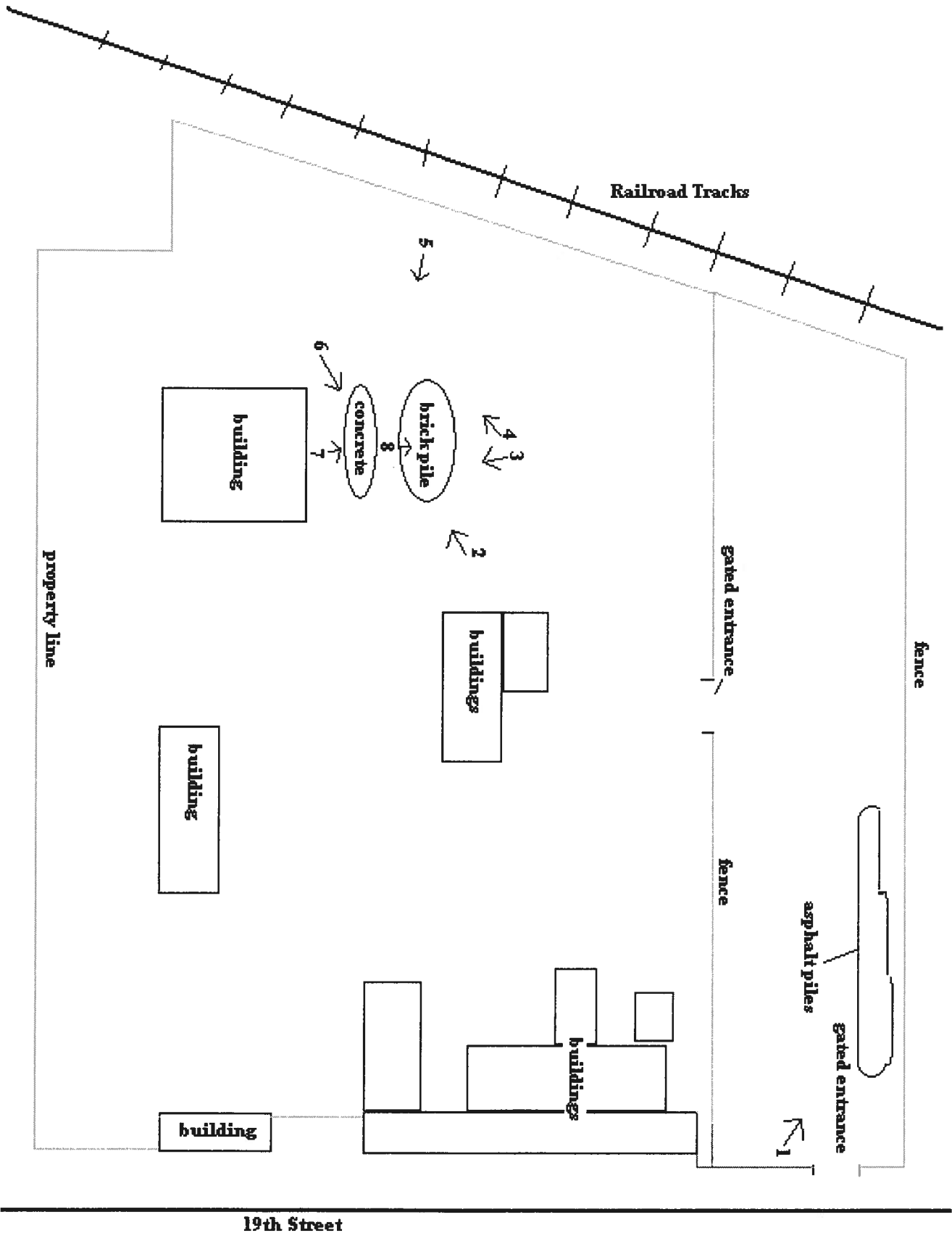
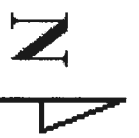
A violation of Section 812.101(a) is alleged for the following reason: **this waste management site has not submitted an application to the Agency for a permit to develop and operate a landfill.**

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
SITE SKETCH

Date of Inspection : 02/16/12 County: Coles
Inspector: Jennifer O'Hearn
Site Name : Mattoon/ Niemeier, Louis
Site Code: 0298060004

City: Mattoon

Map Not to Scale
Arrows indicate direction
and location of Photos





DIGITAL PHOTOGRAPHS File Names: 0298060004~02162012-[Exp. #].jpg



Date:02-16-2012
Time: 12:42PM
Direction: Northwest
Photo by: Jen O'Hearn
Exposure #: 001
Comments: View of asphalt piles as seen in previous two inspections with no apparent change.



Date:02-16-2012
Time: 12:56PM
Direction: Southwest
Photo by: Jen O'Hearn
Exposure #: 002
Comments: View of concrete and brick pile area as seen in previous two inspections with no apparent change.



DIGITAL PHOTOGRAPHS File Names: 0298060004~02162012-[Exp. #].jpg



Date:02-16-2012
Time: 12:58PM
Direction: Southeast
Photo by: Jen
O'Hearn
Exposure #: 003
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change.



Date:02-16-2012
Time: 12:58PM
Direction: Southwest
Photo by: Jen
O'Hearn
Exposure #: 004
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change.



DIGITAL PHOTOGRAPHS File Names: 0298060004~02162012-[Exp. #].jpg



Date:02-16-2012
Time: 1:00PM
Direction: Southeast
Photo by: Jen
O'Hearn
Exposure #: 005
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change.



Date:02-16-2012
Time: 1:03PM
Direction: Northeast
Photo by: Jen
O'Hearn
Exposure #: 006
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change.



DIGITAL PHOTOGRAPHS File Names: 0298060004~02162012-[Exp. #].jpg



Date:02-16-2012
Time: 1:04PM
Direction: Northwest
Photo by: Jen
O'Hearn
Exposure #: 007
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change; painted
brick observed in
pile.



Date:02-16-2012
Time: 1:08PM
Direction: North
Photo by: Jen
O'Hearn
Exposure #: 008
Comments: View of
concrete and brick
pile area as seen
in previous two
inspections with
no apparent
change; metal and
dimensional
lumber observed
in pile.

0671788 07/30/2004 01:20P FILED
Betty Coffrin - Coles County Clerk & Recorder

(ABOVE SPACE RESERVED FOR RECORDER OF DEEDS)

QUIT CLAIM DEED

THE GRANTOR, MARY LOU GATEWOOD, Surviving Spouse of LELAND D. GATEWOOD, Not Since Remarried, for the consideration of Ten and No/100 Dollars (\$10.00) in hand paid and other good and valuable consideration, CONVEYS and QUIT CLAIMS to 1013 BUILDING ACCOUNT, AN ILLINOIS PARTNERSHIP, any and all interest that she has in the following described Real Estate:

SEVEN AND ONE HALF (7 1/2) RODS OF EVEN WIDTH OFF OF THE NORTH SIDE OF THE FOLLOWING TRACT OF LAND: PART OF SECTION TWENTY THREE (23), TOWNSHIP TWELVE (12) NORTH, RANGE SEVEN (7) EAST OF THE THIRD PRINCIPAL MERIDIAN, BEGINNING AT A POINT 76 RODS NORTH OF THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER (NE. 1/4) OF SAID SECTION TWENTY THREE (23), RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID SECTION 12 1/2 RODS, THENCE WEST 19 RODS 2 FEET AND 6 INCHES, THENCE SOUTH 12 1/2 RODS, THENCE EAST PARALLEL WITH THE NORTH LINE OF THE TRACT KNOWN AS CAMDEN KNIGHT LAND, 19 RODS 2 FEET AND 6 INCHES TO THE PLACE OF BEGINNING, IN COLES COUNTY, ILLINOIS.

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State.

Exempt under provisions of Paragraph E,
Sec. 4, Real Estate Transfer Tax Act.

10/29/01
Date

Don Hance
Buyer, Seller, Representative

Dated this 29th day of OCTOBER A.D. 2001.

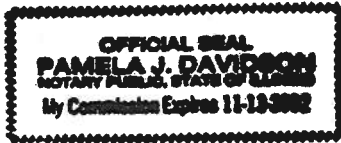
Mail future fax bills to:
1013 Building Account
An Illinois Partnership
c/o Mr. Don D. Hance
Hance, Utz & Associates, L.L.C.
1013 S. 19th St.
Mattoon, IL 61938

Mary Lou Gatewood
MARY LOU GATEWOOD, Surviving
Spouse of LELAND D. GATEWOOD,
Not Since Remarried

STATE OF ILLINOIS)
) SS.
COUNTY OF Cumberland)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that MARY LOU GATEWOOD, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed, sealed and delivered the said instrument as her free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

given under my hand and notarial seal this 29th day of October A.D. 2001.



Pamela J. Davidson
Notary Public

This Deed Prepared By: David Y. Eberspacher, Hefner & Eberspacher, 215 S. 17th St.,
P.O. Box 627, Mattoon, Illinois 61938-0627.
Ils#21/12-09-00/Hance, Utz & Assoc. 3-1234.01 Deed 2
Ikb#31/10-12-01/Hance, 1234.01-Deed2

State of Illinois)
County of Coles)

PLAT ACT AFFIDAVIT

I, (name) Don Hance being duly sworn on oath,
state that I reside at 18 Medinah Court, Mattoon, Illinois 61938

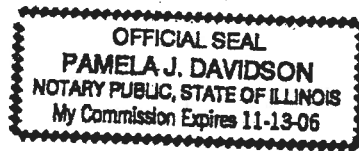
And further states that: (please check the appropriate box)

A. That the attached deed is not in violation of 765 ILCS 205/1a, in that the sale or exchange is of an entire tract of land not being a part of a larger tract of land; or

B. That the attached deed is not in violation of 765 ILCS 205/1b for one of the following reasons: (please circle the appropriate number.)

1. The division of subdivision of land into parcels or tracts of 5 acres or more in size which does not involve any new streets or easements of access;
2. The division of lots or blocks of less than 1 acre in any recorded subdivision which does not involve any new streets or easements of access;
3. The sale or exchange of parcels of land between owners of adjoining and contiguous land;
4. The conveyance of parcels of land or interests therein for use as a right of way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
5. The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
6. The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
7. Conveyances made to correct descriptions in prior conveyances;
8. The sale or exchange of parcels or tracts of land following the division into no more than 2 parts of a particular parcel or tract of land existing on July 17, 1959, and not involving any new streets or easements of access;
9. The sale of a single lot of less than 5 acres from a larger tract when a survey is made by an Illinois Registered Land Surveyor, provided, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on October 1, 1973, and provided also that this exemption does not invalidate any local requirements applicable to the subdivision of land;

AFFIANT further states that this affidavit is made for the purpose of inducing the Recorder of Deeds of Coles County, Illinois to accept the attached deed for recording, and that all local requirements applicable to the subdivision of land are met by the attached deed and the tract described therein.



Subscribed and Sworn to before me this 27th day
of April, 2004

Don Hance
Signature of Affiant

Pamela J. Davidson
Notary Public

657069 05/02/2003 12:55P FILED
Betty Coffrin - Coles County Clerk & Recorder

QUITCLAIM DEED

WHEREAS, the Grantor, K & D Cartage Company, is now in full force and effect and Grantor is the Trustee thereof and now holds title in trust accordingly, and is fully authorized and empowered to make this conveyance pursuant thereto, and has been duly directed to make this conveyance:

NOW THEREFORE, the Grantor, K & D Cartage Company, as Trustee as aforementioned, and not individually, in consideration of the sum of ONE DOLLAR (\$1.00) hereby acknowledged, docs hereby QUITCLAIM unto Louis Kim and Donna Jo Niemeyer, Husband and Wife, each as spouse of the other as joint tenants, of 8010 Louis Lane, Mattoon, Illinois, 61938 all of the Grantor's interest in the following-described land situated in Coles County, Illinois, to-wit:

A part of that part of the Northeast Quarter (NE ¼) of Section Twenty-three (23), Township Twelve (12) North, Range Seven (7) East of the third Principal Meridian, lying East of the East right-of-way line of the Illinois Central Railroad and bounded as follows: Measure North 166.5 feet from the Southeast corner of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) aforesaid for the place of beginning, thence North along the East line of said section, to a point 1122 feet North of the Southeast corner of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said section, thence West 795 feet to a point on the East line of the Illinois Central Railroad Company's right-of-way 1215.5 feet Northwardly, measured along the said right-of-way from the South line of said Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section Twenty-three (23), thence Southwestwardly along the said East line of said right-of-way 1199 feet to a point 1 rod North of the South line of said Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of said Section Twenty-three (23), thence Eastwardly parallel with the South line of said Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) and 16.5 feet North therefrom 954.9 feet, thence North parallel with the East line of said Southeast Quarter

069

(SE ¼) of the Northeast Quarter (NE ¼) 150 feet, thence Eastwardly parallel with the South line of said Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼), 241.75 feet to the place of beginning.

Also a strip of ground 16 feet wide off of the South side of the said Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Twenty-three (23), Township Twelve (12) North, Range Seven (7) East of the Third Principal Meridian, East of the Illinois Central Railroad right-of-way, all being situated in Coles County, Illinois.

Also part of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section Twenty-three (23), Township Twelve (12) North, Range Seven (7) East of the Third Principal Meridian, Coles County, Illinois, described as follows: Beginning at a point 16½ feet North and 33 feet West of the Southeast corner of the Northeast Quarter (NE ¼) of said Section Twenty-three (23), thence West parallel with the South line of said Northeast Quarter (NE ¼), 208.75 feet, thence North parallel with the East line of said Northeast Quarter (NE ¼), 150 feet, thence East parallel with the South line of said Northeast Quarter (NE ¼), 208.75 feet to the West line of 19th Street in the City of Mattoon, thence South 150 feet to the place of beginning, situated in Coles County, Illinois,

EXCEPT: That part of the Southeast Quarter (SE ¼) of the Northeast Quarter (NE ¼) of Section 23, Township 12 North, Range 7 East of the 3rd Principal Meridian, Coles County, Illinois, lying East of the East right-of-way line of the Illinois Central Railroad and North of the property owned by the General Electric Company, containing approximately one (1) acre,

Subject to taxes for the year 2003, due and payable in 2004 and all subsequent years, and also subject to rights-of-way, covenants, easements, restrictions and zoning ordinances of record or openly existing. Situated in Coles County, Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State.

WITNESS the seal of the Grantor, as Trustee aforementioned and not individually.

DATED this 2nd day of May, 2003.

Louis Kim Niemeyer
Signature

Mail future tax bills:
Grantee at above address
Title Not Examined

STATE OF Illinois) I, the undersigned notary public, in and
) ss.
COUNTY OF Coles) for the aforesaid County and State.

DO HEREBY CERTIFY that Louis Kim Niemeyer, personally known to me to be the same person(s) whose name is/are subscribed to the foregoing instrument) appeared before me this day in person and acknowledged that he/she signed, sealed and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 2nd day of May, 2003.

W. Sue Romack
Notary Public



Exempt under provisions of
Paragraph 2 35ILCS 200/31.4

Date 5-2-03

Louis Kim Niemeyer
per Seller, Representative

PROOF OF SERVICE

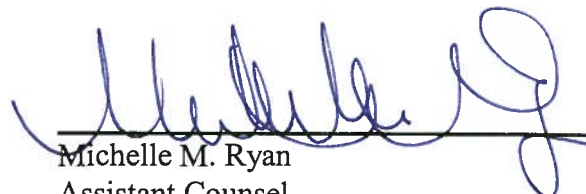
I hereby certify that I did on the 4th day of April 2012, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Louis K. Niemeyer
1321 S. 19th Street
Mattoon, IL 61938

RECEIVED
CLERK'S OFFICE
APR 06 2012
STATE OF ILLINOIS
Pollution Control Board

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



Michelle M. Ryan
Assistant Counsel

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