

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 TROY CARTER,)
)
 Respondent.)

PCB NO.
(Enforcement-Land)

ORIGINAL
RETURN TO CLERK'S OFFICE

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on July 2, 2012, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT and ENTRY OF APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2010), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

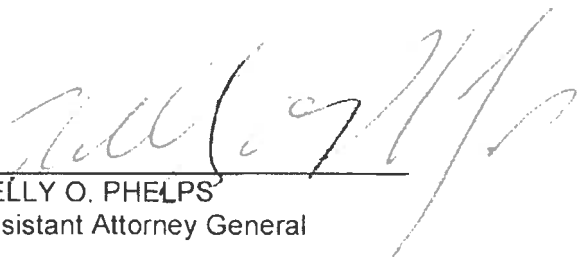
BY: 

KELLY O. PHELPS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 2, 2012

CERTIFICATE OF SERVICE

I hereby certify that I did on July 2, 2012, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.



KELLY O. PHELPS
Assistant Attorney General

This filing is submitted on recycled paper.

Electronic Filing - Received, Clerk's Office, 07/02/2012

****** PCB 2013-001 ******

SERVICE LIST

TROY CARTER
#1 Glenwood Acres #34
Salem, IL 62881

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB NO.
) (Enforcement-Land)
)
TROY CARTER,)
)
Respondents.)

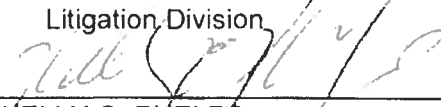
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, KELLY O. PHELPS, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
KELLY Q. PHELPS
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 2, 2012

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

MARION COUNTY ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Land-Enforcement)
TROY CARTER,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, TROY CARTER, as follows:

COUNT I

OPEN DUMPING VIOLATIONS

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2010).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2010), and is charged, *inter alia*, with the duty of enforcing the Act.
3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. Respondent Troy Carter is the son of Judy Carter. Judy Carter is the owner of rural real property nearing one half acre in size and located at 2958 Nation Road, Salem, Marion County, Illinois ("site"). The site is the locus of violations alleged in this Complaint.

5. At a time better known to the Respondent and prior to March 24, 2009, the Respondent resided at the site. As of March 24, 2009, the site's residence was not occupied by the Respondent; rather it was occupied by the Respondent's estranged spouse, Nicole Carter. However, Respondent still had limited access to the site pursuant to an Order of Protection.

6. On March 24, 2009, the Illinois EPA inspected the site and found violations of the Act and Board's regulations related to open dumping of wastes. The site was not, and is not, registered or permitted as a waste storage or waste disposal facility. The March 24, 2009, violations observed at the site are the subject of this Complaint.

7. The Illinois EPA conducted subsequent follow-up inspections of the site on March 25, 27, April 7, May 7, June 25, November 24, 2009 and February 10, 2010.

8. The half acre rural site is essentially rectangular in shape with a mobile home residence on the northernmost front of the property. A gravel drive is situated perpendicularly and just west of the mobile home. The gravel drive runs the length of the property north to south. Immediately behind the mobile home sits a detached garage and a shed *See Complainant's Exhibit 1* (p. 1, site diagram).

9. On March 24, 2009, 55 gallon drums that were bulging, rusted, leaking grey liquid, and otherwise in poor condition were situated contiguously behind the detached garage and covered with more than 50 waste tires. The drums had hazardous waste stickers and auto paint markings. Some of the drums were on their sides. Ten 55 gallon drums were *in situ* immediately to the south. A total of 36 drums were onsite. An open dumping area with approximately 40 to 50 cubic

yards of wastes was situated immediately west of the gravel drive, as well as, an open burning area that was nearly 15 feet in diameter consisting mostly of residential trash *See Complainant's Exhibit 1*(pp. 2-6, March 24, 2009, photographs #s 1-10).

10. The open dumping area's contents included approximately 30 waste tires, 20 pieces of oilfield metal pipe which were 15 feet in length, gas cylinders, empty drums, car parts, miscellaneous wood, steel pipe, plastic buckets, concrete, mattress springs, residential wastes, refuse *See Complainant's Exhibit 1*(p. 2, March 24, 2009, photograph # 1).

11. On March 25, 2009, Illinois EPA inspector Kendall Couch interviewed Respondent near the site. At that time Respondent admitted that he had transported the 55 gallon drums to the site five to six years previously and that they belonged to Respondent. Respondent also admitted ownership of the remaining wastes excepting that some of the residential wastes on the burn pile was the responsibility of his estranged spouse, Nichole Carter. Respondent denied that the owner of the property, his mother, Judy Carter, had responsibility for any of the wastes.

12. On March 27, 2009, Illinois EPA inspectors sampled the waste from the drums for analysis and testing. The analysis and testing confirmed the waste within the drums to be hazardous waste. On that date, Illinois EPA Inspector Kendal Couch interviewed Respondent again. During the interview Respondent intimated that he believed the 55 gallon drums were hazardous material because it was auto-paint mixed with solvent. Respondent believed the waste originally came from Rockwell International. Respondent further intimated that five or six years ago he had accepted between \$9.00 and \$11.00 per drum, to remove them from an undisclosed location.

13. On May 4, 2009, Respondent received Illinois EPA's Notice of Violations numbered L-2009-01085; citing violations of the Act and the Board's regulations observed during the March 27, 2009 inspection.

14. Section 21 of the Act, 415 ILCS 5/21 (2010), states in pertinent part:

No person shall:

(a) Cause or allow the open dumping of any waste.

* * *

(c) Dispose, treat, store or abandon any waste, or transport any waste into the 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.

* * *

(p) In violation of subdivision (a) of this Section, 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;

15. Section 3.535 of the Act, 415 ILCS 5/3.535 (2010), defines waste as:

"Waste" means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. .

16. Section 3.305 of the Act, 415 ILCS 5/3.305 (2010), defines open dumping as:

"Open dumping" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

17. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2010), defines litter as:

"Litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, abandoned vehicle (as defined in the Illinois Vehicle Code), [FN1] motor vehicle parts,

furniture, oil, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste as defined in Section 3.360 of the Environmental Protection Act, [17N2] or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

18. Respondent caused or allowed the open dumping of wastes at the site that included waste tires, oilfield metal pipe, gas cylinders, empty drums, car parts, miscellaneous wood, steel pipe, plastic buckets, concrete, mattress springs, residential wastes, and refuse.

19. By causing or allowing the open dumping of wastes at the site that included waste tires, oilfield metal pipe, gas cylinders, empty drums, car parts, miscellaneous wood, steel pipe, plastic buckets, concrete, mattress springs, residential wastes and refuse, Respondent, violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

20. Respondent disposed of or abandoned wastes at the site for period better known to Respondent; a period beginning some time prior to March 24, 2009, running through January of 2010. The wastes included waste tires, oilfield metal pipe, gas cylinders, empty drums, car parts, miscellaneous wood, steel pipe, plastic buckets, concrete, mattress springs, residential wastes and refuse. The site did not and does not meet the requirements of Act or the Board's regulations and standards adopted thereunder that regulate waste disposal sites.

21. By disposing or abandoning wastes at a site that does not meet the requirements of the Act or the Board's regulations and standards adopted thereunder, the Respondent, violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

22. Respondent caused or allowed open dumping and discard of used substances, unconsumed substance, and wastes at the site which resulted in litter for period better known to Respondent; a period beginning some time prior to March 24, 2009, running through January of 2010.

23. By causing or allowing open dumping and discard of used substances, unconsumed substance, and wastes at the site which resulted in litter, the Respondent, violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2010).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II

USED AND WASTE TIRE OPEN DUMPING VIOLATION

1-13. The Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count II.

14. Section 55(a) of the Act, 415 ILCS 5/55(a) (2010), provides, in relevant part, as follows:

- a. No person shall:
 - 1. Cause or allow the open dumping of any used or waste tire.

* * *

24. Respondent caused or allowed open dumping of used and waste tires numbering in excess of 50 for period better known to him; a period beginning some time prior to March 24, 2009, running through January of 2010.

15. By causing or allowing the open dumping of used and waste tires, Respondent violated Section 55(a) of the Act, 415 ILCS 5/55(a) (2010)

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and

E. Granting such other relief as the Board may deem appropriate.

COUNT III

HAZARDOUS WASTES STORAGE AND OPERATING VIOLATIONS

1-13. The Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count III.

14. Section 21(f) of the Act, 415 ILCS 5/21(g) (2010), states in pertinent part:

Prohibited acts. No person shall:

* * *

(f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:

(1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act . . .

(2) in violation of any regulations or standards adopted by the Board under this Act; or

15. Sections 703.121(a) and (b) of the Board's regulations, 35 Ill. Admin. Code 703.121(a) and (b), state in pertinent part:

a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:

1) Without a RCRA permit for the HWM (hazardous waste management) facility; or

2) In violation of any condition imposed by a RCRA permit.

b) An owner or operator of a HWM [hazardous waste management] unit must have permits during the active life (including the closure period) of the unit.

16. Section 724.111 of the Board's regulations, 35 Ill. Admin. Code 724.111, (Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities) states in pertinent part:

Every facility owner or operator must apply to USEPA Region 5 for a USEPA identification number using USEPA Form 8700-12. The facility owner or operator must obtain a copy of the form from the Agency, Bureau of Land (217-782-6762), and submit a completed copy of the form to the Bureau of Land, in addition to notification to USEPA Region 5.

17. Section 724.114 of the Board's regulations, 35 Ill. Admin. Code 724.114, states in pertinent part:

a) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active

portion of the facility, unless the owner or operator demonstrates the following to the Agency:

1) That physical contact with the waste, structures or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock that may enter the active portion of a facility; and

2) That disturbance of the waste or equipment, by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of the requirements of this Part.

c) Unless the owner or operator has made a successful demonstration under subsections (a)(1) and (a)(2) of this Section, a sign with the legend, "Danger - Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility, and at other locations, in sufficient numbers to be seen from any approach to this active portion. The sign must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

18. Section 724.115(a) of the Board's regulations, 35 Ill. Admin. Code 724.115(a), states in pertinent part:

a) The owner or operator must conduct inspections often enough to identify problems in time to correct them before they harm human health or the environment. The owner or operator must inspect the facility for malfunctions and deterioration, operator errors, and discharges that may be causing or may lead to either of the following:

1) Release of hazardous waste constituents to the environment; or

2) A threat to human health.

19. Section 724.131 of the Board's regulations, 35 Ill. Admin. Code 724.131, states in pertinent part:

Facilities must be designed, constructed, maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

20. Section 724.135 of the Board's regulations, 35 Ill. Admin. Code 724.135, states in pertinent part:

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless the owner or operator demonstrates to the Agency that aisle space is not needed for any of these purposes.

21. Section 724.212 of the Board's regulations, 35 Ill. Admin. Code 724.212, states in pertinent part:

- a) Written plan required.
 - 1) The owner or operator of a hazardous waste management facility must have a written closure plan.

22. Section 724.271 of the Board's regulations, 35 Ill. Admin. Code 724.271, states in pertinent part:

If a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects, etc.) or if it begins to leak, the owner or operator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of this Part

23. Section 724.273 of the Board's regulations, 35 Ill. Admin. Code 724.273, states in pertinent part:

- a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.
- b) A container holding hazardous waste must not be opened, handled, or stored in a manner that may rupture the container or cause it to leak.

24. Section 724.274 of the Board's regulations, 35 Ill. Admin. Code 724.274, states in pertinent part:

At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

25. Section 724.275(a) of the Board's regulations, 35 Ill. Admin. Code 724.275(a), states in pertinent part:

a) Container storage areas must have a containment system that is designed and operated in accordance with subsection (b) of this Section . . .

26. Section 728.150(c) of the Board's regulations, 35 Ill. Admin. Code 728.150(c), states in pertinent part:

c) An owner or operator of a treatment, storage, or disposal facility may store wastes beyond one year; however, the owner or operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

27. Respondent stored, abandoned, or disposed of hazardous waste in 55 gallon drums at the site. The Respondent knew or had reason to believe the waste in the drums was a paint and solvent mixture. The waste was stored, abandoned, or disposed of for period in excess of five years; a period beginning some time prior to March 24, 2009.

28. Respondent failed to seek or obtain a RCRA permit. At no time was the Respondent in compliance with the Board's standards and regulations for hazardous waste management.

29. By storing, abandoning or disposing of hazardous waste in 55 gallon drums at the site for a period in excess of five years without a RCRA permit and without compliance with the Board's hazardous waste management standards and regulations, Respondent violated Section 21(f) of the Act, 415 ILCS 5/21(f) (2010) and Sections 703.121(a) and (b) of the Board's regulations, 35 Ill. Admin. Code 703.121(a) and (b).

30. Respondent was the owner or operator of a hazardous waste management site and he failed to seek or obtain an USEPA identification number.

31. By owning or operating a hazardous waste management site and failing to obtain an USEPA identification number, Respondent violated Section 724.111 of the Board's regulations, 35 Ill. Admin. Code 724.111.

32. Respondent owned or operated a hazardous waste management site and failed to prevent the unknowing entry onto the site, and he failed to minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the site.

33. By owning or operating a hazardous waste management site and failing to prevent the unknowing entry onto the site, and failing to minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of the site, Respondent violated Section 724.114(a) of the Board's regulations, 35 Ill. Admin. Code 724.114(a).

34. Respondent owned or operated a hazardous waste management site and failed to demonstrate to the Illinois EPA that physical contact with the waste, or disturbance of the waste would not injure unknowing or unauthorized persons or livestock entering the site and failed to properly post signage indicating "Danger, Keep Out".

35. By owning or operating a hazardous waste management site and failing to demonstrate to the Illinois EPA that physical contact with the waste, or disturbance of the waste would not injure unknowing or unauthorized persons or livestock entering the site and failing to properly post signage indicating "Danger, Keep Out", Respondent violated Section 724.114(c) of the Board's regulations, 35 Ill. Admin. Code 724.114(c).

36. Respondent failed to conduct inspections of the hazardous waste management site often enough to identify problems in time to correct them.

37. By failing to conduct inspections of the hazardous waste management site often enough to identify problems in time to correct them; Respondent violated Section 724.115(a) of the Board's regulations, 35 Ill. Admin. Code 724.115(a).

38. Respondent failed to design, construct, maintain and operate the site in a manner to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

39. By failing to design, construct, maintain and operate the site in a manner to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment, Respondent violated Section 724.131 of the Board's regulations, 35 Ill. Admin. Code 724.13.

40. Respondent failed to maintain aisle space at the site in a manner to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency.

41. By failing to maintain aisle space at the site in a manner to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, Respondent violated Section 724.135 of the Board's regulations, 35 Ill. Admin. Code 724.135.

42. Respondent failed to have a written closure plan for his hazardous waste management site.

43. By failing to have a written closure plan for his hazardous waste management site, Respondent violated Section 724.212 of the Board's regulations, 35 Ill. Admin. Code 724.212.

44. Respondent failed to transfer hazardous waste from 55 gallon drums holding hazardous waste that were *not* in good condition, had severe rusting, apparent structural defects, and were leaking, to a container that was in good condition or to manage the waste in some other way that complied with Board regulations.

45. By failing to transfer the hazardous waste from 55 gallon drums holding hazardous waste that were *not* in good condition, had severe rusting, apparent structural defects, and were leaking, to a container that was in good condition or to manage the waste in some other way that complied with Board regulations, Respondent violated Section 724.271 of the Board's regulations, 35 Ill. Admin. Code 724.271.

46. Respondent failed to always store the hazardous waste in closed containers and store it in a manner that prevented rupture or leakage.

47. By failing to always store the hazardous waste in closed containers and store it in a manner that prevented rupture or leakage, Respondent violated Section 724.273 of the Board's regulations, 35 Ill. Admin. Code 724.273.

48. Respondent failed to inspect the site where his 55 gallon drums of hazardous waste were stored at least weekly. Respondent failed to look for deterioration and leaking of his 55 gallon drums caused by corrosion or other factors.

49. By failing to inspect the site where his 55 gallon drums of hazardous waste were stored at least weekly and failing to look for deterioration and leaking of his 55 gallon drums caused by corrosion or other factors, Respondent violated Section 724.274 of the Board's regulations, 35 Ill. Admin. Code 724.274.

50. Respondent failed to have a hazardous waste containment system that was designed and operated in accordance with subsection (b) of Section 724.275 of the Board's regulations, 35 Ill. Admin. Code 724.275.

51. By failing to have a hazardous waste containment system that was designed and operated in accordance with subsection (b) of Section 724.275 of the Board's regulations, 35 Ill. Admin. Code 724.275, Respondent violated Section 724.275(a) of the Board's regulations, 35 Ill. Admin. Code 724.275(a).

52. Respondent was an owner or operator of a hazardous waste storage or disposal site and stored hazardous waste at the site beyond one year without a permissible purpose.

53. By owning or operating a hazardous waste storage or disposal site and storing hazardous waste at the site beyond one year without a permissible purpose, Respondent violated Section 728.150(c) of the Board's regulations, 35 Ill. Admin. Code 728.150(c).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and

F. Granting such other relief as the Board may deem appropriate.

COUNT IV

HAZARDOUS WASTES ANALYSIS VIOLATIONS

1-13. The Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count IV.

14. Sections 724.113(a) and (b) of the Board's regulations, 35 Ill. Admin. Code 724.113(a) and (b), state in pertinent part:

a) Analysis:

1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 724.213(d), the owner or operator must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.

b) The owner or operator must develop and follow a written waste analysis plan that describes the procedures that it will carry out to comply with subsection (a) of this Section. The owner or operator must keep this plan at the facility. . . .

15. Respondent failed to obtain a detailed chemical and physical analysis of a representative sample of the wastes in the 55 gallon drums prior to storing or disposing of the wastes.

16. By failing to obtain a detailed chemical and physical analysis of a representative sample of the wastes in the 55 gallon drums prior to storing or disposing of the wastes, Respondent violated Section 724.113(a) of the Board's regulations, 35 Ill. Admin. Code 724.113(a).

17. Respondent failed to develop and follow a written waste analysis plan that described waste analysis procedures.

18. By failing to develop and follow a written waste analysis plan that described waste analysis procedures, Respondent violated Section 724.113(b) of the Board's regulations, 35 Ill. Admin. Code 724.113(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT V

HAZARDOUS WASTES TRANSPORTATION VIOLATIONS

1-13. The Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count V.

14. Section 21(g) of the Act, 415 ILCS 5/21(g) (2010), states in pertinent part:

Prohibited acts. No person shall:

(g) Conduct any hazardous waste-transportation operation:

(1) without registering with and obtaining a special waste hauling permit from the Agency in accordance with the regulations adopted by the Board under this Act; or

(2) in violation of any regulations or standards adopted by the Board under this Act.

15. Section 723.111 of the Boards regulations, 35 Ill. Admin. Code 723.111, states in pertinent part:

a) A transporter must not transport hazardous waste without having received a USEPA identification number from the Administrator. . . .

16. Sections 723.120(a) and (b) of the Boards regulations, 35 Ill. Admin. Code 723.120(a) and (b), state in pertinent part:

a) No acceptance without a manifest.

1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123.

* * *

b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

17. Respondent transported 55 gallon drums of hazardous waste to the site without registering and obtaining a special waste hauling permit from the Illinois EPA.

18. By transporting the 55 gallon drums of hazardous waste to the site without registering and obtaining a special waste hauling permit from the Illinois EPA, Respondent violated Section 21(g)(1) of the Act, 415 ILCS 5/21(g)(1) (2010).

19. Respondent transported 55 gallon drums of hazardous waste to the site in violation of regulations or standards adopted by the Board under the Act.

20. By transporting the 55 gallon drums of hazardous waste to the site without registering and obtaining a special waste hauling permit from the Illinois EPA, Respondent violated Section 21(g)(2) of the Act. 415 ILCS 5/21(g)(2) (2010).

21. Respondent transported 55 gallon drums of hazardous waste to the site without having received a USFPA identification number.

22. By transporting the 55 gallon drums of hazardous waste without having received a USEPA identification number, Respondent violated Section 723.111 of the Boards regulations, 35 Ill. Admin. Code 723.111.

23. Respondent accepted the hazardous waste contained in the 55 gallon drums at the site from a generator without a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123.

24. By accepting the hazardous waste contained in the 55 gallon drums at the site from a generator without a hazardous waste manifest signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, Respondent violated Section 723.120(a) of the Boards regulations, 35 Ill. Admin. Code 723.120(a).

25. Respondent failed to sign and date a hazardous waste manifest acknowledging acceptance of the hazardous waste that was transported to the site.

26. By failing to sign and date a hazardous waste manifest acknowledging acceptance of the hazardous waste that was transported to the site, Respondent violated Section 723.120(a) of the Boards regulations, 35 Ill. Admin. Code 723.120(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act. and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 2, 2012

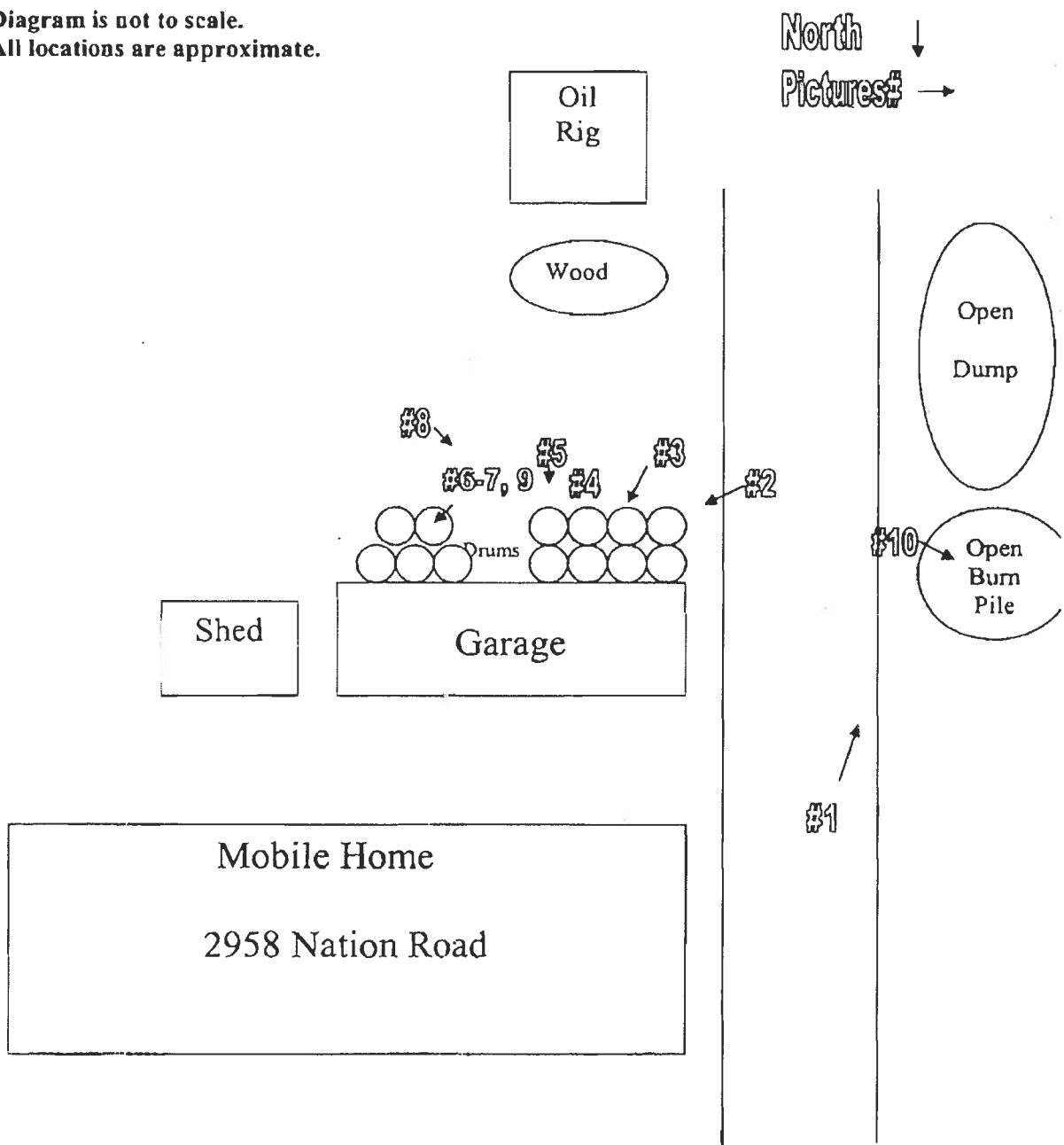
State of Illinois
Environmental Protection Agency
Facility Diagram

Date of Inspection: March 24, 2009 Inspector: Kendall Couch

Site Code: LPC#-1210455119 County: Marion

Site Name: Carter, Troy Time: 11:10am-11:30am

Diagram is not to scale.
All locations are approximate.





Illinois Environmental Protection Agency
Bureau of Land
Division of Land Pollution Control

1210455119-Marion County
Salem/Carter, Troy
FOS File

DIGITAL PHOTOGRAPHS File Names: 1210455119~03242009-[Exp. #1-2]



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: South
Photo by: K. Couch
Exposure #: 001
Comment: Open dump
with burn pile. Tires,
auto parts, piping,
wood, furniture and
gas cylinders.



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Northeast
Photo by: K. Couch
Exposure #: 002
Comments: Drums
covered with tires and
black plastic sheet.



Illinois Environmental Protection Agency
Bureau of Land
Division of Land Pollution Control

1210455119-Marion County
Salem/Carter, Troy
FOS File

DIGITAL PHOTOGRAPHS File Names: 1210455119~03242009-[Exp. #3-4]



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Northeast
Photo by: K. Couch
Exposure #: 003
Comment: Drums full
of unknown material.



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Down
Photo by: K. Couch
Exposure #: 004
Comment: Drum with
Hazardous waste
sticker.



Illinois Environmental Protection Agency
Bureau of Land
Division of Land Pollution Control

1210455119-Marion County
Salem/Carter, Troy
FOS File

DIGITAL PHOTOGRAPHS File Names: 1210455119~03242009-[Exp. #5-6]



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Northwest
Photo by: K. Couch
Exposure #: 005
Comment: Drums
covered with black
plastic sheet and
waste tires.



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: North
Photo by: K. Couch
Exposure #: 006
Comment: Drum.





Illinois Environmental Protection Agency
Bureau of Land
Division of Land Pollution Control

1210455119-Marion County
Salem/Carter, Troy
FOS File

DIGITAL PHOTOGRAPHS File Names: 1210455119~03242009-[Exp. #7-8]



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: North
Photo by: K. Couch
Exposure #: 007
Comment: Leaking
drum.



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Northwest
Photo by: K. Couch
Exposure #: 008
Comment:
Approximately 40
drums covered with
black plastic sheet and
waste tires.



Illinois Environmental Protection Agency
Bureau of Land
Division of Land Pollution Control

1210455119-Marion County
Salem/Carter, Troy
FOS File

DIGITAL PHOTOGRAPHS File Names: 1210455119~03242009-[Exp. #9-10]



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: North
Photo by: K. Couch
Exposure #: 009
Comment: Leaking
drum of apparently
paint or paint waste.



Date: March 24, 2009
Time: 11:10am-
11:30am
Direction: Northwest
Photo by: K. Couch
Exposure #: 010
Comment: Open
burning of residential
trash.

