

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF VERMILION, ILLINOIS) Case No.: AC:
Complainant,)
vs.)
Marian and Russell Herbold)
Respondent)

JURISDICTION

The Administrative Citation is issued pursuant to the statutory authority vested in the Illinois Environmental Protection Agency by section 4(e) and 31.1 of the Illinois Environmental Protection Act ("act") 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County Pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

FACTS

1. That Respondents, Marian and Russell Herbold are, and were at all times relevant to this Administrative Citation, the owner of property located at the area of 614 Poland Road, Danville, more particularly Latitude 40.1850, Longitude -87.6155.
2. That said property is vacant land which is not permitted as a sanitary landfill or dump area.
3. That on 4/02/2013 Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of his inspection report are attached hereto and incorporated herein by reference.

VIOLATIONS

1. On the basis of direct observations personally made by Douglas Toole, the County of Vermilion has determined that on 4/02/13 :
 - A. The Respondent was allowing the open dumping of waste which resulted in litter in violation of Section 21(p)(1).

1 B. The Respondent caused or allowed the open dumping of any waste which results
2 in the deposition of general construction or demolition debris and clean
3 construction and demolition debris in violation of Section 21(p)(7).
4

5 **CIVIL PENALTY**

6 Pursuant to Section 42(b)(4) of the Act, 415 ILCS 5/42(b)(4), Respondent herein is
7 subject to a civil penalty of \$1,500.00 for each violation of each provision under
8 subsection p of Section 21, plus any hearing costs incurred by the Board should the
9 Respondent elect to petition the Illinois Pollution Control Board under the review
10 process described herein below.
11

12 **PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION**

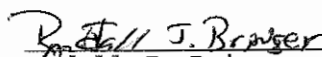
13 You have the right to contest this Administrative Citation under Section 31.1(d) of
14 the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you
15 must file a petition for Review with the Clerk of the Illinois Pollution Control, at
16 the State of Illinois Center, 100 West Randolph Street, Suite 14500, Chicago,
17 Illinois 60601. Such Petition for Review must be filed with thirtyfive (35) days of
18 the date of service of this Administrative Citation, or a default judgment will be
19 issued by the Illinois Pollution Control Board. A copy of the Petition for Review
20 should be filed with the Vermilion County State's Attorney's Office, Courthouse, nd
21 Floor, 7 N Vermilion Street, Danville, Illinois, 61832.

22 If you acknowledge the violation herein, the civil penalty specified above shall be
23 due and payable no later than 2-8-2010. If you do not petition the Illinois Pollution
24 Control Board for review of the Administrative Citation within thirtyfive (35) days
25 of the service hereof and have not paid the civil penalty by the due date stated
26 above, or if you elect to contest this Administrative Citation, any judgment rendered
27 shall specify the due date of the statutory civil penalty and any costs assessed
28 against you.

29 When payment is made, your check should be made payable to the County of Vermilion,
30 Illinois and mailed to the Vermilion County Health Department, 200 South College
31 Street, Danville, Illinois, 61832, together with a completed copy of the emittance
32 form attached hereto.

1
2 If any civil penalty, by reason of acknowledgment, default or finding after hearing,
3 is not paid when due, the Vermilion County State's Attorney may initiate proceedings
4 in the Circuit Court to collect said civil penalty. In addition to the previously
5 assessed civil penalty and any hearing costs of the Illinois Pollution Control Board,
6 the State's Attorney's Office will seek to recover its costs of litigation

7
8 Dated this May 31, 2013

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10 
11 Randall J. Brinegar,
12 State's Attorney for
13 Vermilion County, Illinois

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15 By: 
16 William T. Donahue
17 Assistant State's Attorney
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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

County: Vermilion LPC#: 1838045047 Region: 4 - Champaign

Location/Site Name: Danville/ Herbold

Date: 04/02/2013 Time: From 1:15 p.m. To 1:30 p.m. Previous Inspection Date: 02/29/2012

Inspector(s): Adrianna Krzywicka, Douglas Toole Weather: clear, dry, still, 45 F

No. of Photos Taken: # 09 Est. Amt. of Waste: 80 yds³ Samples Taken: Yes # No ☒

Interviewed: _____ Complaint #: _____

Latitude: 40.1850 Longitude: -87.6155 Collection Point Description: -

(Example: Lat.: 41.26493 Long.: -89.38294 Collection Method: -

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

Marian Herbold
614 Poland Road
Danville, IL 61834
(217) 442-3154

Russell Herbold
614 Poland Road
Danville, IL 61834
(217) 442-3154

	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	<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 # 1838045047

Inspection Date: 04/02/2013

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<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"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

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



PUBLIC HEALTH IS PRICELESS

VERMILION COUNTY HEALTH DEPARTMENT

SHIRLEY HICKS, BS, SPHR, CPHA
PUBLIC HEALTH ADMINISTRATOR

HEALTH AND EDUCATION BUILDING
200 SOUTH COLLEGE, SUITE A
DANVILLE, IL 61832
PHONE/TDD 217 431-2662
FAX 217 431-7483
www.vchd.org

LPC #1838045047
Danville / Herbold
FOS
04/02/2013

OPEN DUMP INSPECTION NARRATIVE

This unpermitted open dump was reinspected on April 2, 2013, by Douglas Toole and Adrianna Krzywicka of the Vermilion County Health Department. The weather was clear, dry, still and about 45 degrees Fahrenheit. Nine photos were taken of the site.

The site is located in Vermilion County, at 614 Poland Road in rural Danville, Illinois.

INSPECTORS FINDINGS

We arrived at 614 Poland Road in rural Danville, Illinois at about 1:15 p.m. on April 2, 2013 to check the status of the cleanup on the property. We knocked on the door but no one appeared to be home when we arrived.

On the west side of the property behind the buildings, I observed metal pipes, metal drums and other refuse (photos 1, 2). On the east side of the property behind the buildings, I observed a hose, boards, remodeling waste, scrap metal and other refuse (photo 9).

I then went to the south-central part of the property, where I observed boards, household garbage, scrap metal, demolition debris and other refuse (photo 3-5). On the south-west corner of the property, I observed household garbage, wiring, scrap metal and other refuse (photos 6,7). On the south part of the property, I observed scrap metal, wiring and other refuse (photo 8).

There was no evidence of recent waste-burning at the site. We left the property at about 1:30 p.m.



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On the Inspection Report Checklist for this reinspection, I estimated that there were 80 cubic yards of waste on the site. No measurements were performed to arrive at that estimation, only my observations at the time. The actual amount of waste on the site may vary significantly from that estimation.

SUMMARY OF APPARENT VIOLATIONS

ILLINOIS ENVIRONMENTAL PROTECTION ACT (415 ILCS 5/1 et seq.)

Section 21 (a) of the Act: No person shall ... cause or allow the open dumping of any waste. The open dumping of waste was observed on the site.

Section 21 (d)(1) of the Act: No person shall ... conduct any waste storage, waste-treatment, or waste-disposal operation without ... a permit granted by the Agency. No Agency permit to conduct a waste storage, waste-treatment, or waste-disposal operation for the site was issued.

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 Board under the Act. Violations of the Illinois Pollution Control Board Regulations were observed at the site where waste storage, waste-treatment, or waste-disposal operations were taking place.

Section 21(e) of the Act: No person shall ... dispose, treat, store or abandon any waste ... except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder. The storage and disposal of waste was occurring at a site which did not meet the requirements of the Illinois Environmental Protection Act and the Illinois Pollution Control Board Regulations.

Section 21 (p)(1) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... litter. Open dumping of waste resulting in litter was observed at the site.

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Section 21 (p)(7) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... the deposition of general construction or demolition debris; or clean construction or demolition debris. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site.

ILLINOIS POLLUTION CONTROL BOARD; 35 ILLINOIS ADMINISTRATIVE CODE,
SUBTITLE G
(REGULATIONS)

Section 812.101 of the Regulations: ... All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) [415 ILCS 5/21(d)], shall submit to the Agency an application for a permit to develop and operate a landfill. The application must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817. No such application for a permit to develop and operate a landfill was submitted.

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Date of Inspection: April 2, 2013

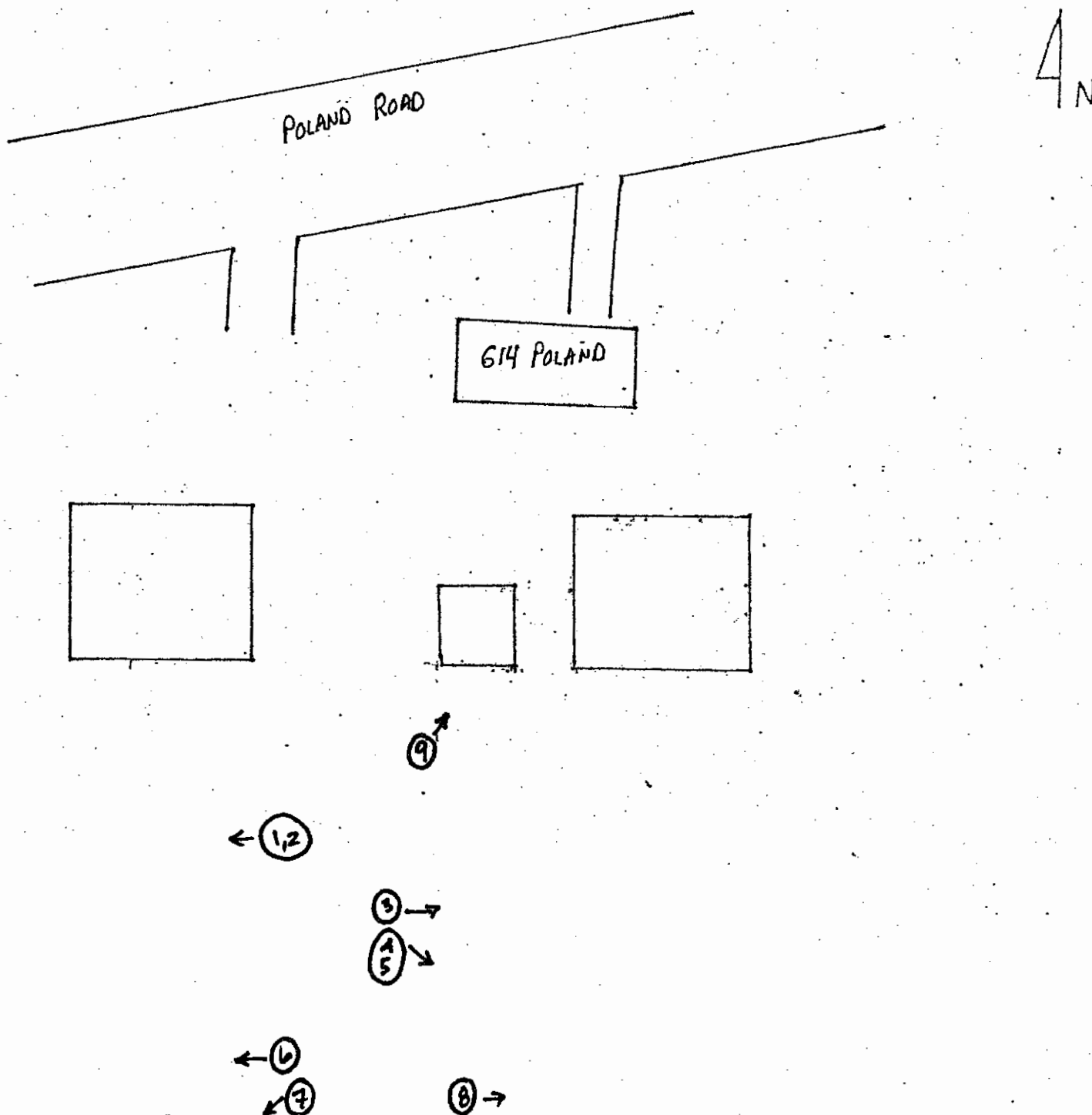
Inspector: DOUGLAS TOOLE & A. Kreyndler

Site Code: 1838045047

County: VERMILION

Site Name: DANVILLE / HERBOLD

Time: 1:15 - 1:30 p.m.





DIGITAL PHOTOGRAPHS

File Name: Danville/Herbold



**Date: 4/2/2013
Time: 1:24 p.m.
Direction: W
Photo by: Adrianna
Krzywicka
Exposure #: 01
Comments:**

**Northwest part of
site**



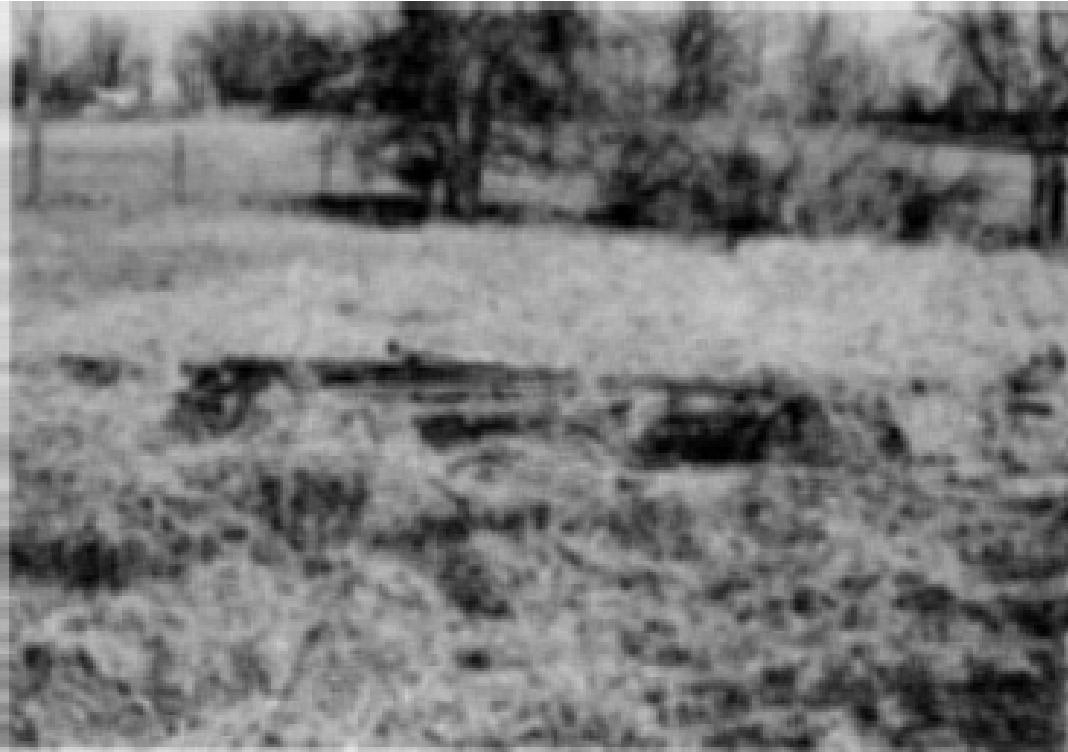
**Date: 4/2/2013
Time: 1:24 p.m.
Direction: W
Photo by: Adrianna
Krzywicka
Exposure #: 02
Comments:**

**Expanded view of
same area in photo
#1**



DIGITAL PHOTOGRAPHS

File Name: Danville/Herbold



Date: 4/2/2013
Time: 1:25 p.m.
Direction: E
Photo by: Adrianna Krzywicka
Exposure #: 03
Comments:

Scrap metal on east part of site



Date: 4/2/2013
Time: 1:25 p.m.
Direction: SE
Photo by: Adrianna Krzywicka
Exposure #: 04
Comments:

Couch noted in central part of site



DIGITAL PHOTOGRAPHS

File Name: Danville/Herbold



Date: 4/2/2013
Time: 1:25 p.m.
Direction: SE
Photo by: Adrianna Krzywicka
Exposure #: 05
Comments:

Expanded view of
same area in photo
#4



Date: 4/2/2013
Time: 1:26 p.m.
Direction: W
Photo by: Adrianna Krzywicka
Exposure #: 06
Comments:

South part of site



DIGITAL PHOTOGRAPHS

File Name: Danville/Herbold



Date: 4/2/2013

Time: 1:26 p.m.

Direction: SW

**Photo by: Adrianna
Krzywicka**

Exposure #: 07

Comments:

**Same area from
photo #6**



DIGITAL PHOTOGRAPHS

File Name: Danville/Herbold



**Date: 4/2/2013
Time: 1:27 p.m.
Direction: E
Photo by: Adrianna
Krzywicka
Exposure #: 08
Comments:**

South part of site



**Date: 4/2/2013
Time: 1:29 p.m.
Direction: NE
Photo by: Adrianna
Krzywicka
Exposure #: 09
Comments:**

North part of site

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

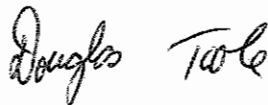
AFFIDAVIT

IN THE MATTER OF) No. _____
Marian and Russell Herbold) County File
)
Respondent.)

The Affiant, Douglas Toole, being first duly sworn, voluntarily deposes and states as follows upon personal knowledge:

1. Affiant is a field inspector employed by the Vermilion County Health Department and has been so employed at all times pertinent hereto.
2. On April 2, 2013 between 1:15 PM P.M. and 1:30 P.M, your Affiant conducted an inspection of land within the County of Vermilion, State of Illinois, known as property of Marian and Russell Herbold, Latitude 40.31850 Longitude - 87.6155
3. Affiant inspected the land by an on-site inspection which included walking on the site and personally viewing the violations and measuring the amount of waste as set out in the inspection checklist as attached.
4. As a result of the activities referred to in paragraphs 2, 3 and above, Affiant completed the Solid Waste Landfill Inspection Checklist, with the enclosed Inspection Report Narrative, Site Sketch and photographs, 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 land of Marian and Russell Herbold on 4/02/13 .

FURTHER Affiant sayeth not.



Douglas Toole

SIGNED and SWORN to before me this 31 day of May, 2013 by
Douglas Toole.

Karen E. Haner

NOTARY PUBLIC



STATE OF ILLINOIS

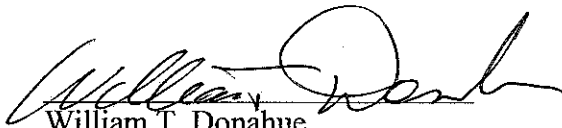
COUNTY OF VERMILION

CERTIFICATE OF SERVICE

I, the undersigned, an assistant state's attorney for Vermilion County, Illinois, state that I have served the attached Administrative Citation upon the following persons:

Marian and Russel Herbold, 614 Poland Road Danville, IL. 61834

by mailing it by Certified mail from Danville, Illinois, with sufficient postage affixed thereto on June 4, 2013.



William T. Donahue
Assistant State's Attorney
Civil Division
Vermilion County Annex Building
3rd Floor
6 N. Vermilion Street
Danville, IL. 61832
217-554-6000
bdonahue@vercounty.org.