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DEC 20 2005

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

AC 05-63

v.

(IEPA No. 78-05-AC)

JOHN R. MALLOCH,


Respondent

NOTICE OF FILING

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

PLEASE TAKE NOTICE that on this date, I am presenting to the hearing officer
for filing with the Clerk of the Pollution Control Board of the State of Illinois the
following instrument entitled ANSWER TO FILING.

Respectfully submitted,



John R. Malloch
Person in control of this site

John R. Malloch
2572 County Road 600 E
Dewey, IL 61840
(217) 897-1573

Dated: December 14, 2005

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STATE OF ILLINOIS
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ILLINOIS ENVIRONMENTAL
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(IEPA No. 78-05-AC)

JOHN R. MALLOCH,

Respondent

ANSWER TO FILING

On April 4, 2005, the Illinois Environmental Protection Agency ("Illinois EPA") issued an administrative citation to John R. Malloch ("Respondent"). The citation alleges violations of Section 21(p)(1), 21(p)(3) and 21(p)(7) of the Environmental Protection Act ("Act") (415 ILCS 5/21(p)(1), (3) & (7) (2002), in that Respondent caused or allowed open dumping of waste resulting in litter, open burning, and the deposition of construction or demolition debris. The violations occurred at a property located at 2572N and 600E, south of Fisher, Champaign County. Transcript, p. 7; Exhibit 1.

There was no open dumping of waste at this site. What the EPA calls litter was material from the demolition of buildings, open burning was from burning trees that were growing on the site. We were still there working when the inspector was there. An excavator was used to load up the big cement from footings and floors.


The Illinois EPA has not demonstrated in any way that Respondent caused or allowed any dumping on the site. Small wood had gone between the teeth of excavator

while being loaded. Tires had been taken out of some of the buildings and piled at the site. There were not enough tires to load as I can haul 20 per load. Pallets were used so I can efficiently load out metal. There was no burning in various piles on the site. There was one very small pile where small tree limbs had been burned. The stumps are still on the site so I can prove the trees came from the site. As the person in control of this site, I was cleaning up these old buildings and the machinery was still sitting at the site. What the Illinois EPA calls litter was to be picked up by hand and hauled off the site. The burn pile at the site should not be defined as open dumping as a farmer can spread the ashes on a field. Construction or demolition debris can be found at any site when building clean up is in progress. The materials from the buildings being demolished can legally be hauled off the site by the farmer. This is a situation where the ends do justify the means. The tin roofing and siding, and the cement had already been hauled off when the inspector arrived. As the EPA's own photographs show, the excavator was still on the site and I was running the tractor-loader-backhoe at the time of the inspection.

Respondent requests that the Board enter a final finding none of the sections and imposes no penalty.

Respectfully Submitted,

DATED: December 14, 2005



John R. Malloch
Person in control of this site

John R Malloch
2572 County Road 600 E
Dewey, IL 61840
(217) 897-1573

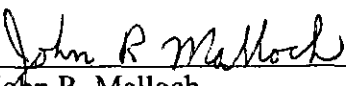
PROOF OF SERVICE

I HERBY CERTIFY THAT I DID ON THE 15TH DAY OF December, 2005,
send by U.S. Mail with postage thereon fully prepaid, by depositing in a United States
Post Office Box an true and correct copy of the following instrument entitled ANSWER
TO FILING

To: Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 61794-9276

And the original and nine (9) true and correct copies of the same foregoing instrument

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



John R. Malloch
Person in control of site

John R. Malloch
2572 County Road 600 E
Dewey, IL 61840