



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276 - (217) 782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601 - (312) 814-6001

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

RECEIVED
CLERK'S OFFICE

AUG 10 2006

STATE OF ILLINOIS
Pollution Control Board

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

August 8, 2006

AC 07-07

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

Re: Illinois Environmental Protection Agency v. Matthew P. Bailey
IEPA File No. 143-06-AC; 1918085003—Wayne County

Dear Clerk Gunn:

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

ROCKFORD - 4302 North Main Street, Rockford, IL 61103 - (815) 987-7760 • DES PLAINES - 9511 W. Harrison St., Des Plaines, IL 60016 - (847) 294-4000
ELGIN - 595 South State, Elgin, IL 60123 - (847) 608-3131 • PEORIA - 5415 N. University St., Peoria, IL 61614 - (309) 693-5463
BUREAU OF LAND - PEORIA - 7620 N. University St., Peoria, IL 61614 - (309) 693-5462 • CHAMPAIGN - 2125 South First Street, Champaign, IL 61820 - (217) 278-5800
SPRINGFIELD - 4500 S. Sixth Street Rd., Springfield, IL 62706 - (217) 786-6892 • COLLINSVILLE - 2009 Mall Street, Collinsville, IL 62234 - (618) 346-5120
MARION - 2309 W. Main St., Suite 116, Marion, IL 62959 - (618) 993-7200

RECEIVED
CLERK'S OFFICE

AUG 10 2006

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MATTHEW P. BAILEY,)
)
Respondent.)

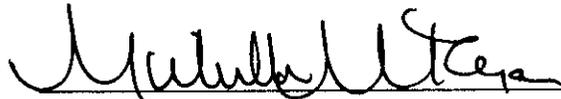
AC 07-07
(IEPA No. 143-06-AC)

NOTICE OF FILING

To: Matthew P. Bailey
401 S. 15th Street
P.O. Box 34
Lawrenceville, IL 62439

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
Special Assistant Attorney General

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

Dated: August 8, 2006

RECEIVED
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AUG 10 2006
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MATTHEW P. BAILEY,)
)
)
Respondent.)

AC 07-07
(IEPA No. 143-06-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 (2004).

FACTS

1. That Matthew P. Bailey ("Respondent") is the present owner of a facility located approximately 200 yards west of US Highway 45 and approximately one mile south of the City of Fairfield, Wayne County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Barnhill/Bailey, Fred.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1918085003.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on July 19, 2006, Jay Winters and Garrison Gross of the Illinois Environmental Protection Agency's Marion Regional Office inspected the above-described facility. A copy of their inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Jay Winters and Garrison Gross during the course of the June 7, 2006 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) (2004).

- (7) 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) (2004).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), 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 September 30, 2006, 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 (2004), 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.

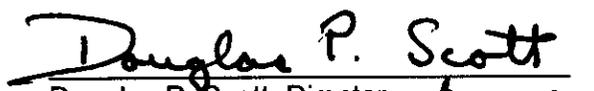
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2004), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board 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 (2004). 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.


Douglas P. Scott, Director *by wcc*
Illinois Environmental Protection Agency

Date: 8/8/06

Prepared by: Susan E. Santarelli, 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

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

AUG 10 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
MATTHEW P. BAILEY,)
))
Respondent.)

AC 01-01
(IEPA No. 143-06-AC)

FACILITY: Barnhill/Bailey, Fred

SITE CODE NO.: 1918085003

COUNTY: Wayne

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: July 19, 2006

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.

LPC # 1918085003

Inspection Date: 07/19/2006

	(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 checked="" 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 checked="" type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input checked="" 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"/>

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.

Inspection Date: 07/19/2006
Inspector(s): Jay Winters and Garrison Gross
GPS Coordinates: 38.34592°N, -88.36177°W 13.3' accuracy

Open Dump Inspection Report Narrative

Jay Winters—along with Garrison Gross—representing the Illinois Environmental Protection Agency, inspected this site on July 19, 2006 as a follow-up to the previous inspection on May 12, 2006. The inspection was conducted in accordance with the Illinois Environmental Protection Act: 415 ILCS 5/4(c) & 4(d). The purpose of this inspection was to determine compliance with the Environmental Protection Act and 35 Illinois Administrative Code Subtitle G: Waste Disposal Rules and Regulations of the Illinois Pollution Control Board.

Inspection Findings

Jay Winters (author) and Garrison Gross arrived at the site at approximately 11:23 AM on July 19, 2006. The weather was 97°F and sunny. The site was located behind a row of blue metal buildings along an unnamed paved alley approximately 200 yards west of US Highway 45 approximately one mile south of Fairfield, IL. Upon arrival at the site, I noticed that no action had been taken to remove any waste from the site since my last inspection.

The waste was mostly concentrated along the edges and corners of the concrete slab, but was also scattered throughout the weedy area just south of the slab (see site sketch). I photographed an overview of the concrete pad from its east edge (Exposure #001). The waste previously observed in the southeast corner of the slab—which consisted of an intermingled pile of various types of unprotected construction and demolition debris—was again observed (Exposure #002). The pallets of deteriorated metal containers observed during the last inspection were again observed. These deteriorated metal containers had leaked and/or spilled their contents—which have solidified over time (Exposure #s 003 and 004). The deteriorated pallets containing rubber tubing that were observed during the previous inspection were again observed (Exposure #005). The four unlabeled black plastic drums at the extreme west end of the concrete slab also remained at the site (Exposure #s 006 and 007).

The weedy lot adjacent to the slab was still scattered with various types of open dumped waste including, but not limited to, the following: waste tires, scrap metal, deteriorated 55-gallon metal drums, deteriorated one- and five-gallon metal containers, wooden

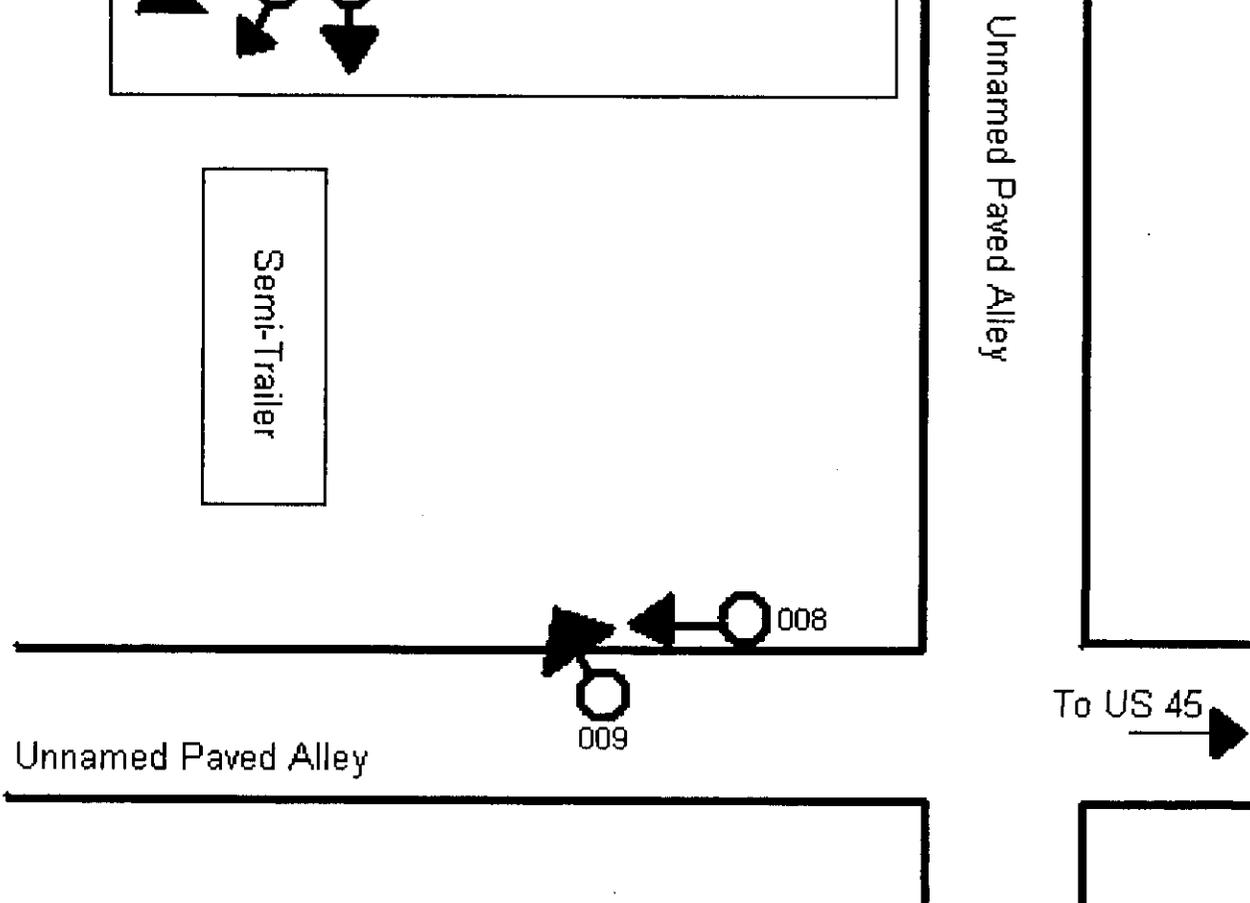
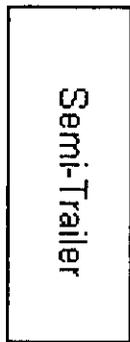
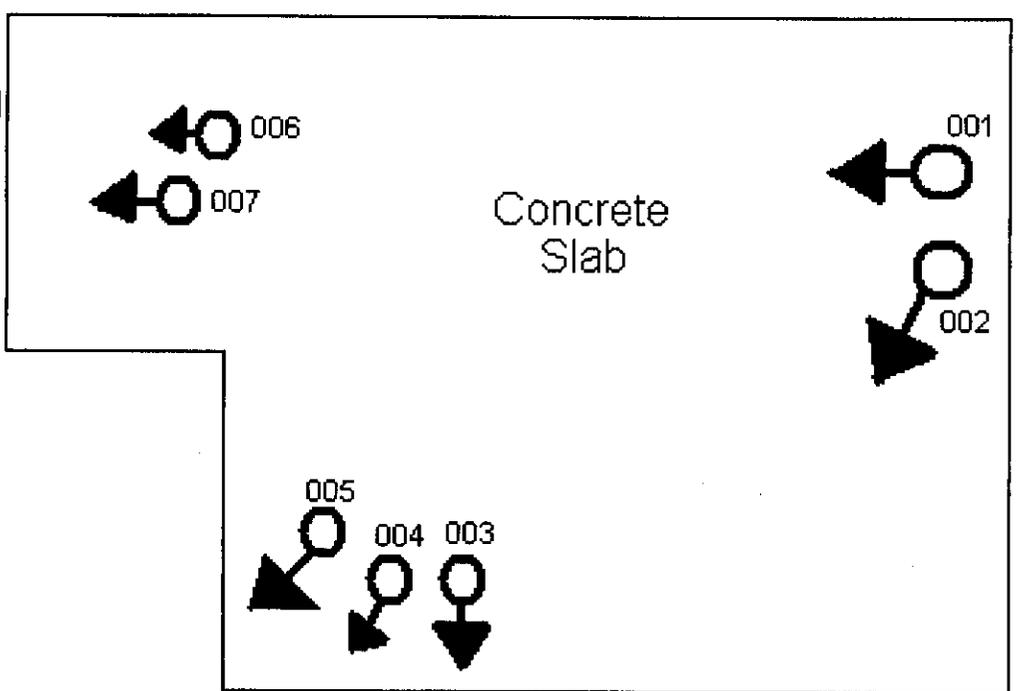
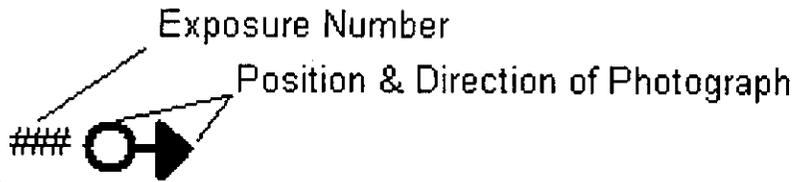
Inspection Findings (continued from previous page)

pallets, foam footballs and basketballs, and a partially burned semi-trailer full of rubber pieces. The waste in this area had been discarded on the ground and was overgrown with weeds and brush (Exposure #009). The contents of some of the deteriorated metal containers in this area had also leaked and/or spilled their contents—which have solidified over time (Exposure #008). These containers were not labeled and their contents are unknown.

No response to the Administrative Citation Warning Notice has been received by the Agency. No action has been taken to remove any of the waste at the site. I estimated the total volume of waste at the site to be at least approximately 200 cubic yards. The inspectors left the site at approximately 11:34 AM.



07/19/2006
Drawing Not To Scale
Locations Are Approximate



Unnamed Paved Alley

Unnamed Paved Alley

To US 45

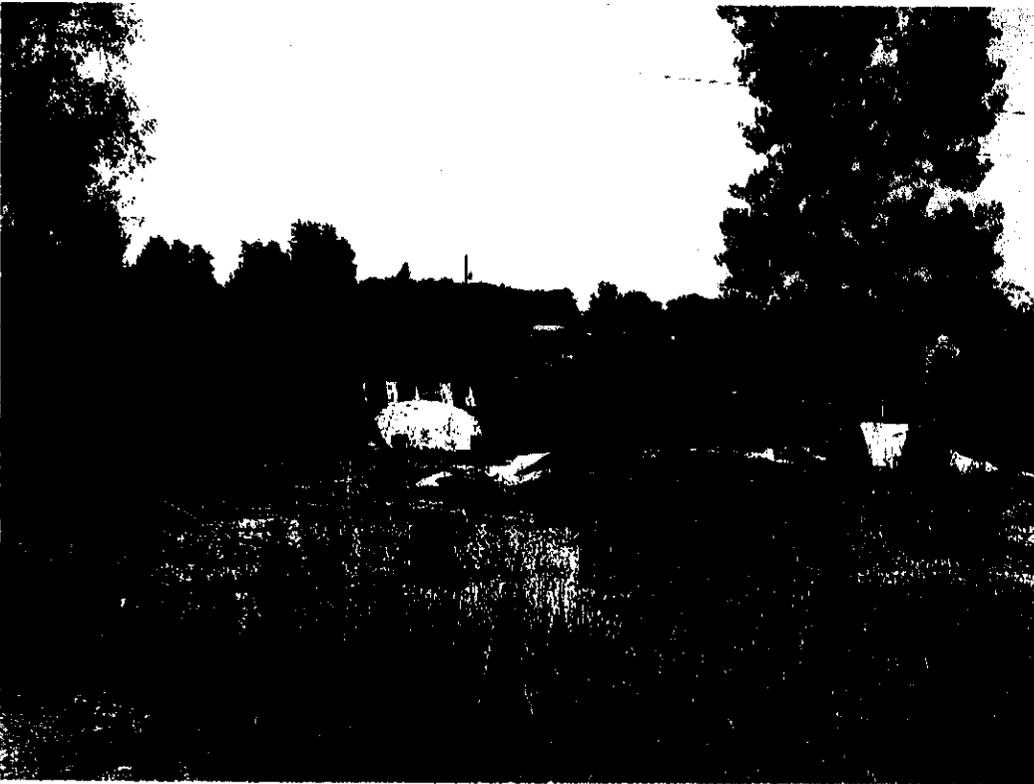


DIGITAL PHOTOGRAPHS

Date: 07/19/2006
Time: 11:24 AM
Direction: W
Photo by: Jay Winters
Exposure #: 001
Comments:



Date: 07/19/2006
Time: 11:24 AM
Direction: SW
Photo by: Jay Winters
Exposure #: 002
Comments:



File Names: 1918085003~07192006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 07/19/2006
Time: 11:25 AM
Direction: S
Photo by: Jay Winters
Exposure #: 003
Comments:



Date: 07/19/2006
Time: 11:27 AM
Direction: SW
Photo by: Jay Winters
Exposure #: 004
Comments:

File Names: 1918085003~07192006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS

Date: 07/19/2006
Time: 11:27 AM
Direction: SW
Photo by: Jay Winters
Exposure #: 005
Comments:



Date: 07/19/2006
Time: 11:27 AM
Direction: W
Photo by: Jay Winters
Exposure #: 006
Comments:



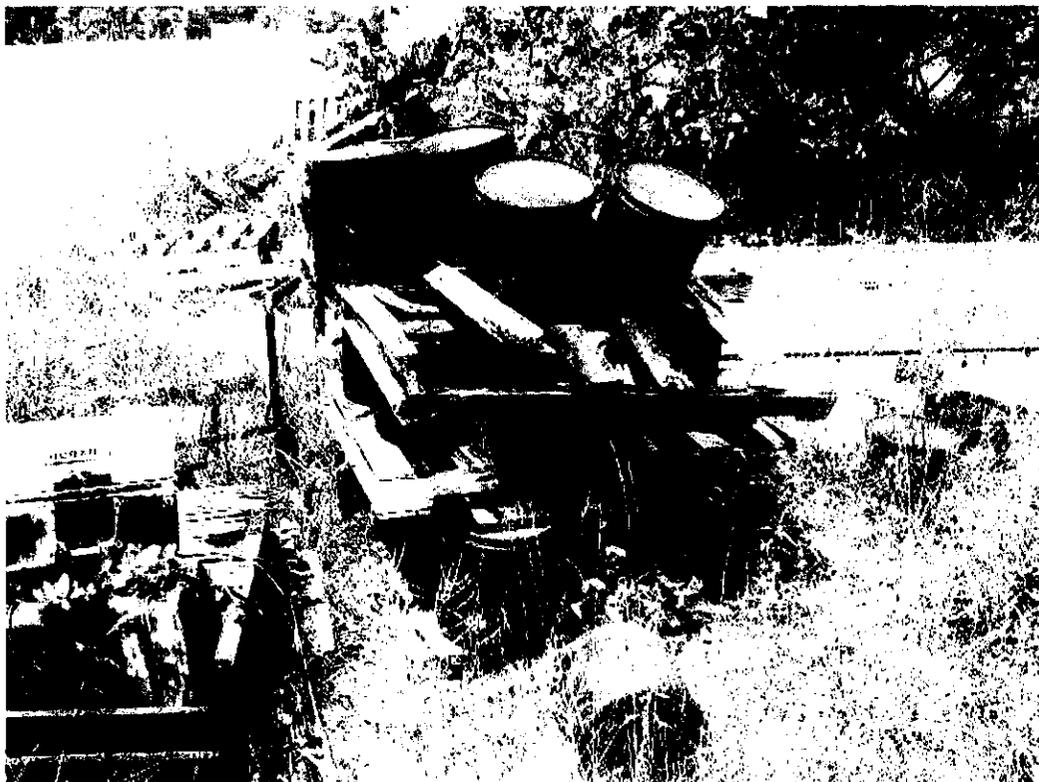
File Names: 1918085003~07192006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 07/19/2006
Time: 11:28 AM
Direction: W
Photo by: Jay Winters
Exposure #: 007
Comments:



Date: 07/19/2006
Time: 11:32 AM
Direction: W
Photo by: Jay Winters
Exposure #: 008
Comments:

File Names: 1918085003~07192006-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 07/19/2006
Time: 11:32 AM
Direction: NW
Photo by: Jay Winters
Exposure #: 009
Comments:

File Names: 1918085003-07192006-[Exp. #].jpg

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
)
 v.) IEPA DOCKET NO.
)
 Matthew P. Bailey)
)
 Respondent.)

AFFIDAVIT

Affiant, Garrison Gross, 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 July 19, 2006, between 11:23 a.m. and 11:34 a.m., Affiant conducted an inspection of a disposal site operated by Matthew P. Bailey, located in Wayne County, Illinois, and known as Barnhill/Bailey, Fred by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1918085003 by the Agency.
3. Affiant inspected said open dump site by an on-site inspection which included walking and photographing the site.

4. As a result of the material actions 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 said Site Inspection.

Garrison Gross

Subscribed and Sworn to before me

this 25th day of July, 2006

Marcia A. English
Notary Public

GG:jkb/26531/07-24-06



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
)
 v.)
)
 Matthew P. Bailey)
)
 Respondent.)

IEPA DOCKET NO.

AFFIDAVIT

Affiant, Jay A. Winters, 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 July 19, 2006, between 11:23 a.m. and 11:34 a.m., Affiant conducted an inspection of a disposal site operated by Matthew P. Bailey, located in Wayne County, Illinois, and known as Barnhill/Bailey, Fred by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1918085003 by the Agency.
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Subscribed and Sworn to before me

this 25 day of July 2006

Marcia A. English
Notary Public

JAW:jkb/26531/07-24-06



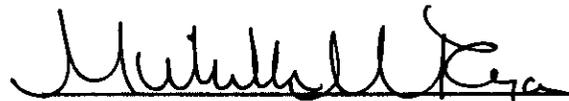
PROOF OF SERVICE

I hereby certify that I did on the 8th day of August 2006, 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: Matthew P. Bailey
401 S. 15th Street
P.O. Box 34
Lawrenceville, IL 62439

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


Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
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