

RECEIVED
CLERK'S OFFICE

MAY 09 2007

STATE OF ILLINOIS
Pollution Control Board

A007-57

INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: This Administrative Citation refers to TWO separate State of Illinois Agencies. One is the **ILLINOIS POLLUTION CONTROL BOARD** located at James R. Thompson Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative Citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) days** of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the clerk of the Illinois Pollution Control Board by either hand delivering or mailing to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the **ATTENTION: DIVISION OF LEGAL COUNSEL.**

Any person other than individuals **MUST** appear through an attorney-at-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 Ill. Adm. Code 101.400(a).

MAY 09 2007

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
BERNARD KOTTER,)
))
Respondent.)

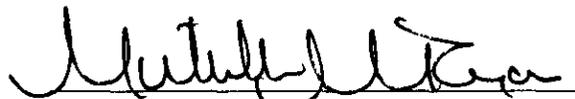
AC 07-57
(IEPA No. 122-07-AC)

NOTICE OF FILING

To: Bernard Kotter
114 East 5th Street
Karkak, IL 62956

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: May 3, 2007

VIOLATIONS

Based upon direct observations made by Robert Mileur during the course of his March 22, 2007 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).

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 One Thousand Five Hundred Dollars (\$1,500.00). 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 May 31, 2007, 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
Douglas P. Scott, Director *by me*
Illinois Environmental Protection Agency

Date: 5/3/07

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

RECEIVED
CLERK'S OFFICE

MAY 09 2007

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
v.)
BERNARD KOTTER,)
Respondent.)

AC **07-57**
(IEPA No. 122-07-AC)

FACILITY: Karnak/Kotter, Bernard

SITE CODE NO.: 1530055006

COUNTY: Pulaski

CIVIL PENALTY: \$1,500.00

DATE OF INSPECTION: March 22, 2007

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.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
) IEPA DOCKET NO.
 v.)
)
 Bernard Kotter)
)
 Respondent.)

AFFIDAVIT

Affiant, Robert Mileur, 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 March 22, 2007, between 1:30 p.m. and 1:45 p.m., Affiant conducted an inspection of a disposal site operated by Bernard Kotter, located in Pulaski County, Illinois, and known as Karnak/Kotter, Bernard by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1530055006 by the Agency.
3. Affiant inspected said Karnak/Kotter, Bernard 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 Karnak/Kotter, Bernard.

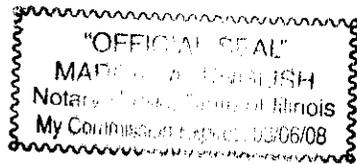
Wendy A. Milner

Subscribed and Sworn to before me

this 18th day of April, 2007

Maureen A. English
Notary Public

GES:RM:jkb/29991/04-17-07



LPC # 1530055006

Inspection Date: 03/22/2007

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input 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 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"/>

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.



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY
INSPECTION NARRATIVE

LPC# 1530055006 – Pulaski County
Karnak/Kotter, Bernard
Inspector(s): Robert Mileur
March 22, 2007
FOS File

Inspection Report Narrative

Robert Mileur representing the Agency inspected this site on March 22, 2007. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the Illinois Environmental Protection Act: 415 ILCS 5/4(c) & 4(d). The purpose of this inspection was to determine compliance with the Illinois Environmental Protection Act and 35 Ill. Adm. Code, Subtitle G: Waste Disposal Rules and Regulations.

The inspection was a follow up to an inspection completed on November 29, 2006. A subsequent ACWN was issued and signed for on December 6, 2006 and there has been no response from the responsible party. The inspection consisted of walking and photographing the site.

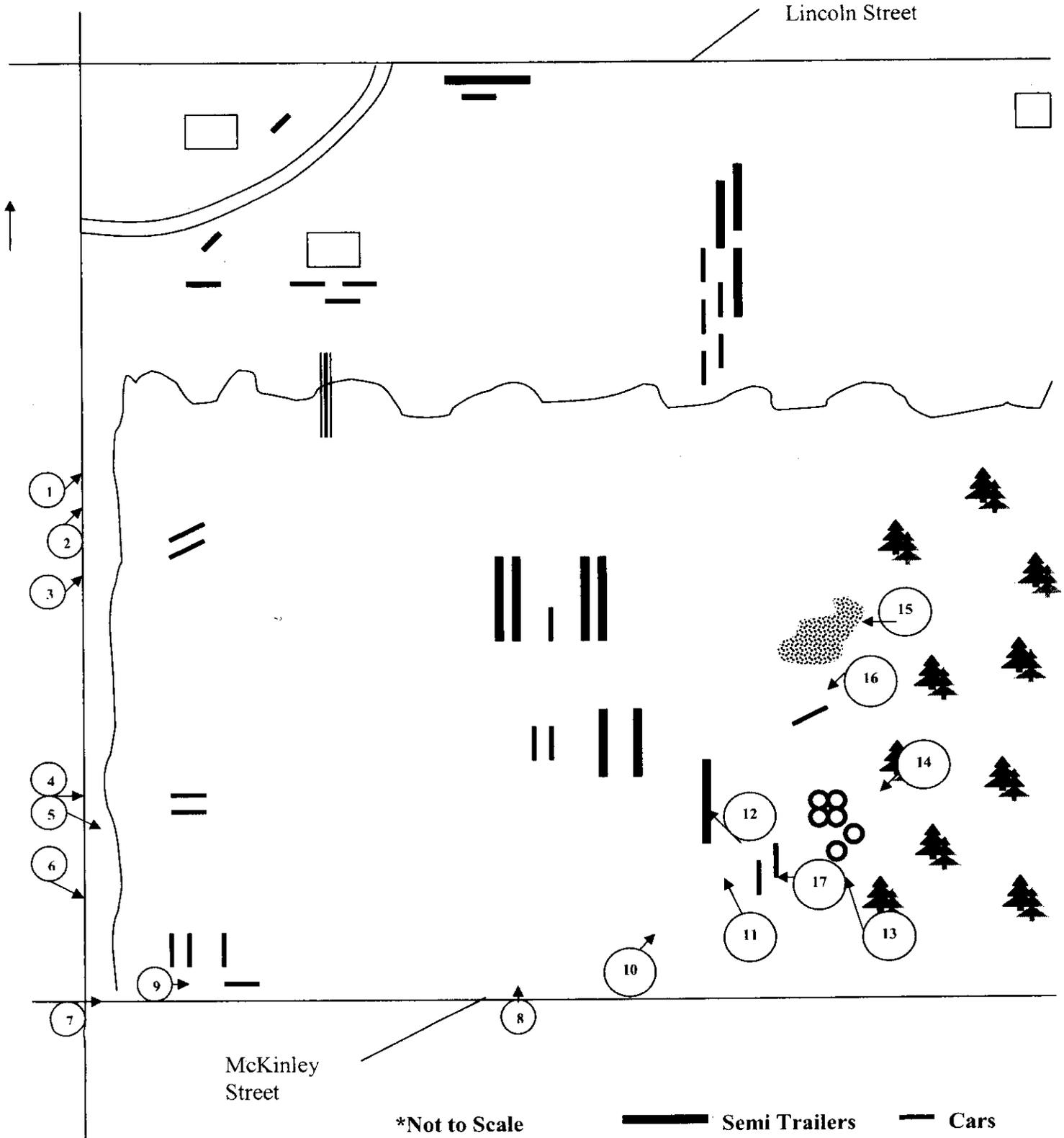
Inspection Findings

I arrived at the site at around 1:30pm and found no one there at the time. The property appears to be divided by a large drainage ditch with similar materials found on both sides of the drainage and an old bridge connecting the two areas. There were abandoned vehicles and semi trailers on both sides of the ditch. Some of the semi-trailers had the name, "Kotter" on them. Much of the material was overgrown with trees and appeared to be open dumped. Several of the vehicles and old semi trailer units were in deteriorating condition, not protected from the elements, and were easily visible from the roadway. Considering the location of the items and their condition, the site represents an urban blight on the village of Karnak. The items at the site mostly consisted of metal based materials and have some value as salvage. Also at the site, located in the woods on the southeast side of the area, I found around 50 semi-trailer tires. Some were on rims but most were not and many were holding water. I estimated that there is around 600 cubic yards of waste material at the site. Some of the semi trailers located on the north side of the site was in reasonable condition but some, like the old stock trailers, were in bad condition and may have value only as scrap. There were some vehicles at the site that might possibly be valuable as collector cars, but none of them were being stored with any future intended use. Many of them had their windows broken out with the interior exposed to the elements. Overall, the site contained a total of 11 semi trailer beds and around 25 vehicles in varying states of disrepair. Two of the flat bed semi trailers contained dimensional lumber that had rotted and was no longer valuable as lumber. Mixed in the waste I observed several wet cell batteries that had been thrown on the ground.

I concluded my inspection at around 1:45pm.



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY
SITE SKETCH



Lincoln Street

McKinley Street

*Not to Scale

— Semi Trailers — Cars



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: NE
Photo by: Robert Mileur
Exposure #: 001
Comments: View of
Kotter property looking
NE from street.



Date: 3/22/07
Time: 1:33pm
Direction: NE
Photo by: Robert Mileur
Exposure #: 002
Comments: Looking
northeast from road.
Abandoned itmes found
gown up on property.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: NE
Photo by: Robert Mileur
Exposure #: 003
Comments: Looking east from street at abandoned trailer and cars.



Date: 3/22/07
Time: 1:33pm
Direction: E
Photo by: Robert Mileur
Exposure #: 004
Comments:

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction:
Photo by: Robert Mileur
Exposure #: 005
Comments: Standing in
street looking east
towards abandoned
vehicles.



Date: 3/22/07
Time: 1:33pm
Direction: SE
Photo by: Robert Mileur
Exposure #: 006
Comments: View of SW
corner of property.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: E
Photo by: Robert Mileur
Exposure #: 007
Comments: Looking eastward at abandoned cars and items that, judging by the vegetative growth, have been there for some time.



Date: 3/22/07
Time: 1:33pm
Direction: N
Photo by: Robert Mileur
Exposure #: 008
Comments: View of abandoned cars and semi-trailers. Note weeds and tree growth.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: E
Photo by: Robert Mileur
Exposure #: 009
Comments: Picture of
abandoned car with trees
growing up around it.



Date: 3/22/07
Time: 1:33pm
Direction: NE
Photo by: Robert Mileur
Exposure #: 010
Comments: View of
abandoned stock trailer,
truck bed, and old cab for
early model truck. All
overgrown with weeds.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: N
Photo by: Robert Mileur
Exposure #: 011
Comments: View looking north. Abandoned flat bed and stock trailers noted at site.



Date: 3/22/07
Time: 1:33pm
Direction: N
Photo by: Robert Mileur
Exposure #: 012
Comments: View of old semi-trailer loaded with deteriorating lumber. Trees showing growing up around trailer.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: NW
Photo by: Robert Mileur
Exposure #: 013
Comments: View looing
from road into the woods.
Tires and debris noted.



Date: 3/22/07
Time: 1:33pm
Direction: SW
Photo by: Robert Mileur
Exposure #: 014
Comments: View of tires
found scattered in woods.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: W
Photo by: Robert Mileur
Exposure #: 015
Comments: view looking west at debris piled in the woods.



Date: 3/22/07
Time: 1:33pm
Direction: W
Photo by: Robert Mileur
Exposure #: 016
Comments: View of abandoned manure spreader grown up in weeds.

File Names: 1530055006~032220007-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 3/22/07
Time: 1:32pm
Direction: SW
Photo by: Robert Mileur
Exposure #: 017
Comments: View of
abandoned vehicles.

File Names: 1530055006~032220007-[Exp. #].jpg

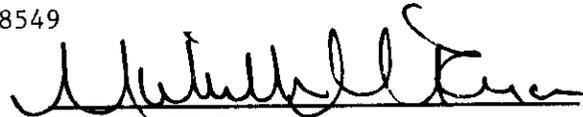
PROOF OF SERVICE

I hereby certify that I did on the 3rd day of May 2007, 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: Bernard Kotter
114 East 5th Street
Karkak, IL 62956
Cert # 7004 2510 0001 8587 8532

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
Cert # 7004 2510 0001 8587 8549



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