



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) 814-6026

ROD R. BLAGOJEVICH, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

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

August 22, 2008

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

ORIGINAL

RECEIVED
CLERK'S OFFICE

AUG 25 2008

STATE OF ILLINOIS
Pollution Control Board

AC09-11

Re: Illinois Environmental Protection Agency v. Ruby Acklin and Joseph Flick
IEPA File No. 156-08-AC: 1818545010—Union County

Dear Mr. Therriault:

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

AUG 25 2008

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
RUBY ACKLIN and JOSEPH FLICK,)
)
Respondents.)

AC 09-11

(IEPA No. 156-08-AC)

ORIGINAL

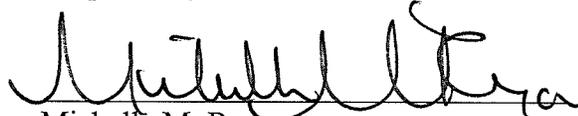
NOTICE OF FILING

To: Joseph Flick
315 Vine Street
Cobden, IL 62920

Ruby Acklin
211 Cobden School Road
Cobden, IL 62920

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
Assistant Counsel

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

Dated: August 22, 2008

4. That on July 17, 2008, Phillip Fatka of the Illinois Environmental Protection Agency's Marion Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Phillip Fatka during the course of his July 17, 2008 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2006).
- (2) That Respondents 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) (2006).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondents are 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 Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 30, 2008, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2006), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents 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.

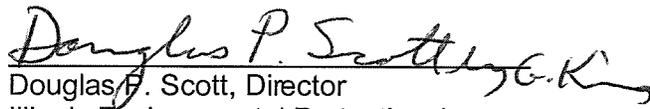
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondents fail to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall 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, Respondents' 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2006). If Respondents elect to contest this Administrative Citation, then Respondents 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
Illinois Environmental Protection Agency

Date: 8/22/08

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 25 2008

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
)
 v.)
)
 Joseph Flick and Ruby Acklin)
 1818545010 – Union County)
 Cobden/Acklin-Flick)
)
 Respondent.)

ACO9-11

IEPA DOCKET NO.

ORIGINAL

AFFIDAVIT

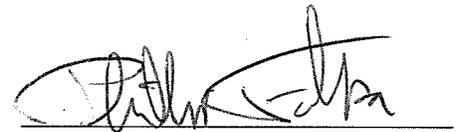
Affiant, Phillip Fatka, being first duly sworn, voluntarily deposes and states as follows:

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 17, 2008, between 10:45am and 10:55am, Affiant conducted an inspection of a disposal site owned by Joseph Flick and Ruby Acklin, located in Union County, Illinois, and known as Cobden/Acklin-Flick by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1818545010 by the Agency.

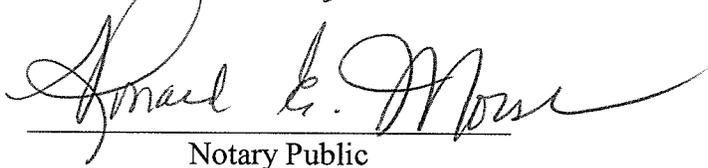
3. Affiant inspected said open dump site by an on-site inspection which included walking and photographing the site.

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 open dump site.



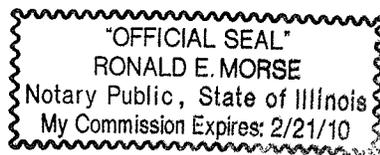
Subscribed and Sworn to before me

this 20th day of August, 2008



Notary Public

(Initial Block)



LPC # 1818545010

Inspection Date: 07/17/2008

	(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 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.

Illinois Environmental Protection Agency
Narrative Inspection Report

Site #: 1818545010

Date: 7-17-08

County: Union

Inspector: P. Fatka

Subject: Cobden/Acklin-Flick

Complaint #: C-08-054

General Remarks

G.P.S.: N 37.53103 W 89.18276

Time: 10:45am-10:55am

Volume of waste found at site: ~80yd³, including ~35 used tires

Owner of Property: Ruby Acklin/Joseph Flick

Weather: ~85°F, Sunny, Clear

Soil Conditions: Normal

This inspection was made as a follow-up to the February 7, 2008 inspection by this office. The site is located at 4155 Wing Hill Road west of Cobden, Illinois. The site was easily accessed by the aforementioned road. This inspector knocked on the door but no one came to the door or made any attempt to inquire as to my presence on the property. Fourteen (14) pictures were taken of the waste, which consisted of a pile of bagged aluminum cans and other scrap metals measuring ~6yd by 6yd by 2yd, household wastes, three junk vehicles, ~35 used tires scattered across the property, roughly 4yd³ of general construction and demolition debris (GC/DD), and general refuse scattered across the property. One of the junk vehicles had a small trailer on its hood and windshield. Another was missing all its windows, the radiator, and the engine. The final junk vehicle was a microbus. The door had been left open and the microbus was full of waste. Additionally, it had sunk into the ground up to the frame and was missing at least one tire. The general refuse scattered around the two burn barrels appeared to have been moved and/or rearranged. While several used tires have been removed from the site, no copies of receipts or consensual removal agreements have been received by this office to verify proper disposal. The pile of bagged aluminum cans and scrap metal in the backyard has grown in size. Other than these changes, the site remains in the same condition it was in during my previous inspection. Records at the Union County Assessor's Office showed that the property is owned by Ruby Acklin, who is selling the property contract-for-deed to Joseph Flick.

The following conditions, which constitute violations, were observed:

Illinois Environmental Protection Act Requirements:

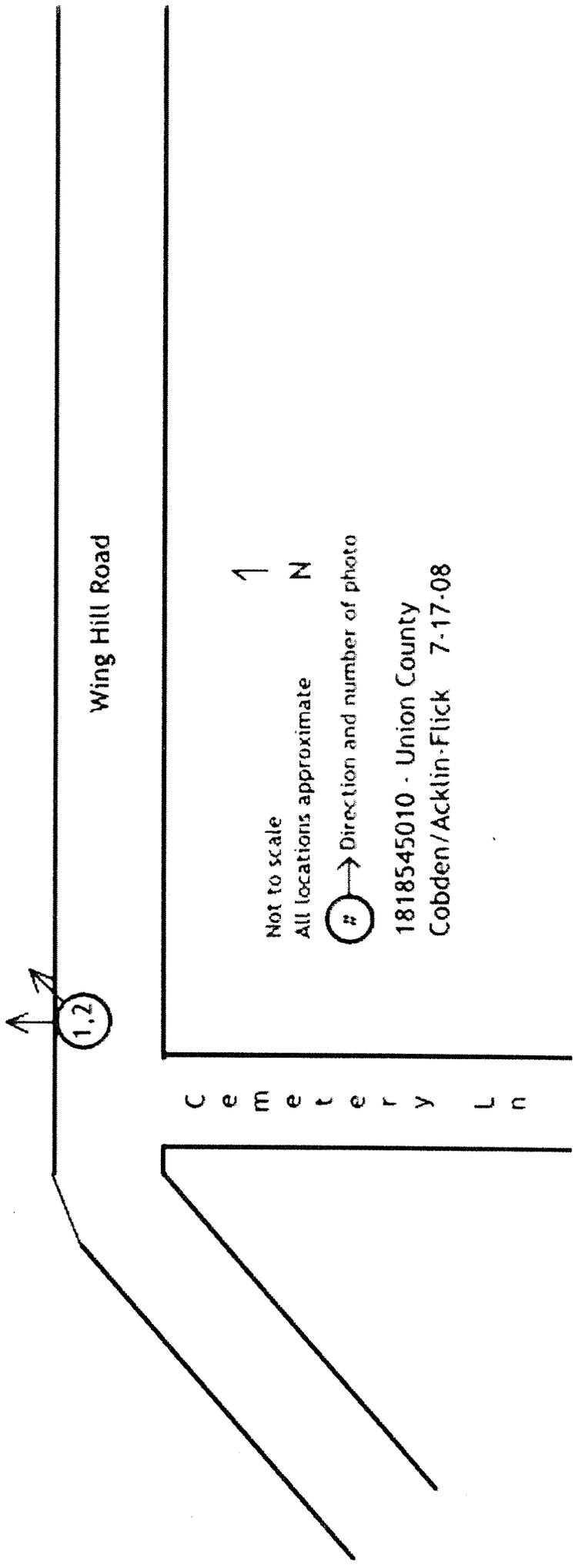
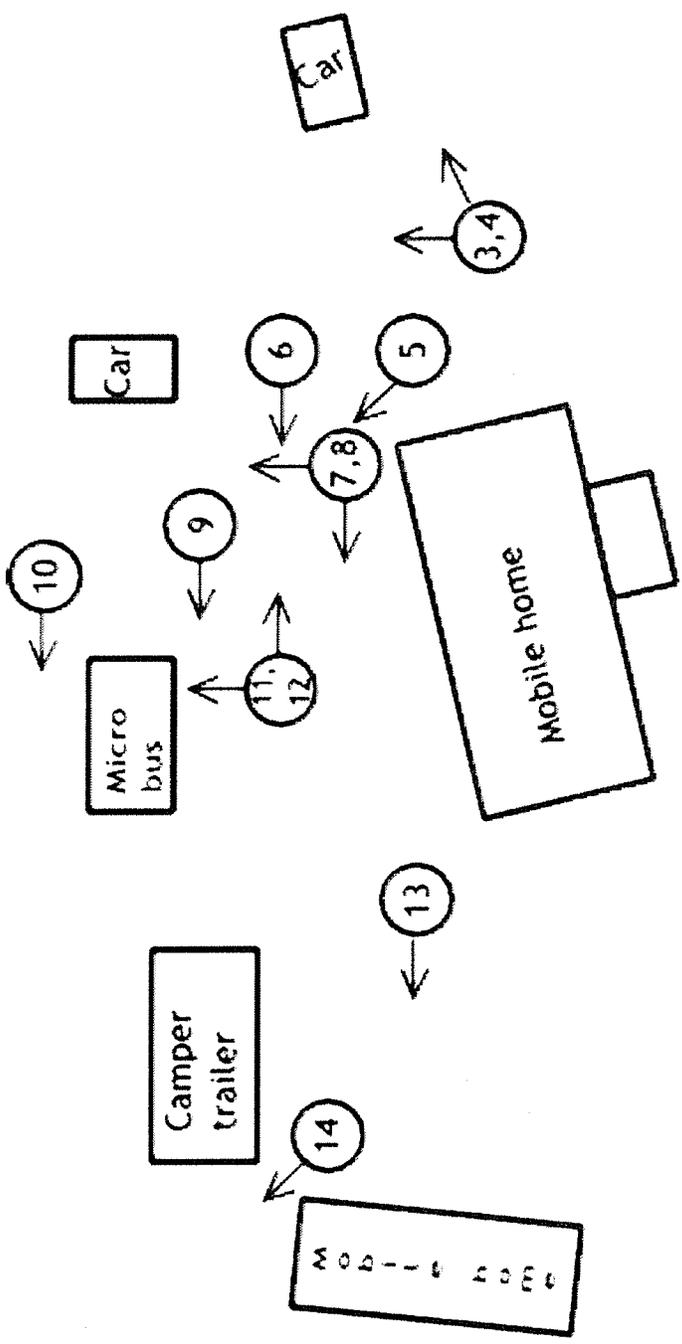
- 1. 21(a) Cause or allow open dumping**
- 2. 21(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:**
 - (1) Without a permit**
 - (2) In violation of any regulations or standards adopted by the Board**

3. **21(e) Dispose, treat, store, or abandon any waste or transport any waste into the State at/to sites not meeting requirements of Act**
4. **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
 - (7) Deposition of general construction or demolition debris or clean construction or demolition debris
5. **55(a) No person shall**
 - (1) Cause or allow open dumping of any used or waste tire

35 Illinois Administrative Code Requirements Subtitle G

6. **812.101(a) Failure to submit an application for a permit to develop and operate a landfill**

Findings: The abandoned non-functional vehicles, unprotected GC/DD deposited directly on the ground, ~35 used tires, bagged but unprotected aluminum cans and other scrap metals, and other general wastes found at this site constitute open dumping. The number of tires found at this site indicates that wastes have been consolidated from off-site. No records of waste disposal operations being permitted at this site were found. These wastes meet the definition of litter as well. No response to the notice sent to the property owner or buyer was received by this office, and no receipts or removal agreement for the tire disposal have been received.



Not to scale
 All locations approximate
 # → Direction and number of photo

1818545010 - Union County
 Cobden/Acklin-Flick 7-17-08



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:47am
Direction: N
Photo by: P. Fatka
Exposure #: 001
Comments: View of the western part of the site from the road.



Date: 7-17-08
Time: 10:47am
Direction: NE
Photo by: P. Fatka
Exposure #: 002
Comments: View of the eastern part of the site from the road.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:49am
Direction: NE
Photo by: P. Fatka
Exposure #: 003
Comments: Full burn barrel, used tires, and a demolition derby car.



Date: 7-17-08
Time: 10:49am
Direction: N
Photo by: P. Fatka
Exposure #: 004
Comments: A trampoline frame, tarps, and more used tires.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:49am
Direction: NW
Photo by: P. Fatka
Exposure #: 005
Comments: Used tires
and bagged aluminum
cans.



Date: 7-17-08
Time: 10:50am
Direction: W
Photo by: P. Fatka
Exposure #: 006
Comments: Bagged
aluminum cans and
general wastes.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:50am
Direction: W
Photo by: P. Fatka
Exposure #: 007
Comments: White goods,
scrap metal, and general
waste.



Date: 7-17-08
Time: 10:50am
Direction: N
Photo by: P. Fatka
Exposure #: 008
Comments: A small burn
site. Possibly
recreational, there are
some elements of waste in
it.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:51am
Direction: W
Photo by: P. Fatka
Exposure #: 009
Comments: White goods
and scrap metal.



Date: 7-17-08
Time: 10:51am
Direction: W
Photo by: P. Fatka
Exposure #: 010
Comments: Used tires,
general construction
and/or demolition debris,
and general wastes north
of the junk bus.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:51am
Direction: N
Photo by: P. Fatka
Exposure #: 011
Comments: Lead-acid batteries and general wastes in the junk bus.



Date: 7-17-08
Time: 10:51am
Direction: E
Photo by: P. Fatka
Exposure #: 012
Comments: Another view of the bagged aluminum cans, scrap metal, and general wastes north of the occupied mobile home.

File Names: 1818545010~07172008-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 7-17-08
Time: 10:52am
Direction: W
Photo by: P. Fatka
Exposure #: 013
Comments: Vegetation growing near black boxes.



Date: 7-17-08
Time: 10:52am
Direction: NW
Photo by: P. Fatka
Exposure #: 014
Comments: Used tires. There were many more during the previous inspection. No receipts or consensual removal agreements for used tire disposal have been received by this office.

File Names: 1818545010-07172008-[Exp. #].jpg

RECEIVED
CLERK'S OFFICE

AUG 25 2008

STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I hereby certify that I did on the 22nd day of August 2008, 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

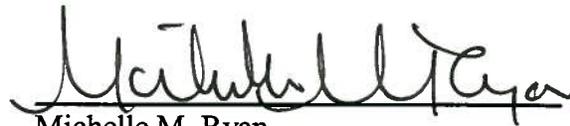
To: Joseph Flick
315 Vine Street
Cobden, IL 62920

Ruby Acklin
211 Cobden School Road
Cobden, IL 62920

ORIGINAL

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



Michelle M. Ryan
Assistant Counsel

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