



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829  
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 782-6125

PAT QUINN, GOVERNOR

John J. Kim, Interim Director

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MAR 26 2012

STATE OF ILLINOIS  
Pollution Control Board

ORIGINAL  
RETURN TO CLERK'S OFFICE

AC12-35

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

March 21, 2012

John Therriault, 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. Brian S. Mullins  
IEPA File No.62-12-AC: 1850155002---Wabash 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

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MAR 26 2012

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 BRIAN S. MULLINS, )  
 )  
 )  
 )  
 )  
 )  
 Respondent. )

AC *12-35*  
 (IEPA No. 62-12-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 (2010).

FACTS

1. That Brian S. Mullins is the current owner ("Respondent") of a facility located at 9552 Market Street, Keensburg, Wabash County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Keensburg/Mullins, Brian S.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1850155002.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on January 30, 2012, Garrison Gross of the Illinois Environmental Protection Agency's ("Illinois EPA") 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.

5. That on 3-21-12, Illinois EPA sent this Administrative Citation via Certified Mail No. 7009 2820 0001 7496 0537.

#### VIOLATIONS

Based upon direct observations made by Garrison Gross during the course of his January 30, 2012 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) (2010).
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3)(2010).
- (3) 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) (2010).

### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 April 15, 2012, 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 (2010), 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) (2010), 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 (2010). 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.

  
\_\_\_\_\_  
John J. Kim, Interim Director  
Illinois Environmental Protection Agency

Date: 3/19/2012

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

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MAR 26 2012

STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 BRIAN S. MULLINS, )  
 )  
 )  
 )  
 )  
 Respondent. )

AC 12-35  
 (IEPA No. 62-12-AC)

FACILITY: Keensburg/Mullins, Brian S.

SITE CODE NO.: 1850155002

COUNTY: Wabash

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: January 30, 2012

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.



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STATE OF ILLINOIS  
Pollution Control Board

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF WILLIAMSON )

AFFIDAVIT

I, Garrison Gross, being first duly sworn upon oath, depose and state 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 January 30, 2012, between 9:25 a.m. and 9:30 a.m., Affiant conducted an inspection of the Brian S. Mullins site in Wabash County, Illinois, known as Keensburg / Mullins, Brian S. by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1850155002 by the Agency.
3. Affiant inspected said Keensburg / Mullins, Brian S. 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 Keensburg / Mullins, Brian S.

FURTHER AFFIANT SAYETH NOT.

/s/ Garrison Gross

Subscribed and Sworn to before  
me this 22<sup>nd</sup> day of February 2012

Gail Stricklin  
Notary Public



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
Open Dump Inspection Checklist**

County: Wabash LPC#: 1850155002 Region: 7 - Marion  
 Location/Site Name: Keensburg / Mullins, Brian S.  
 Date: 01/30/2012 Time: From 9:25 a.m. To 9:30 a.m. Previous Inspection Date: 07/26/2011  
 Inspector(s): Garrison Gross Weather: sunny skies, 45°F, light breeze  
 No. of Photos Taken: # 9 Est. Amt. of Waste: 15 yds<sup>3</sup> Samples Taken: Yes #      No   
 Interviewed: no one at the site Complaint #: C-10-231-M

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

Brian S. Mullins  
9552 Market Street  
P.O. Box 192  
Keensburg, Illinois 62852

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Pollution Control Board**

	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input checked="" type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input checked="" 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 checked="" 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 # 1850155002

Inspection Date: 01/30/2012

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(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 checked="" type="checkbox"/>
10.	55(k)(1)	No person shall cause or allow water to accumulate in used or waste tires. The prohibition set forth in this paragraph (1) of subsection (k) shall not apply to used or waste tires located at a residential household, as long as not more than 12 used or waste tires are located at the site.	<input checked="" type="checkbox"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
11.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
12.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
13.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
14.	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"/>
<b>OTHER REQUIREMENTS</b>			
15.		APPARENT VIOLATION OF: ( <input type="checkbox"/> ) PCB; ( <input type="checkbox"/> ) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
16.	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.



*State of Illinois*  
**ENVIRONMENTAL PROTECTION AGENCY**  
**Narrative Inspection Report**

**Site #:** 1850155002 – Wabash County  
**Site Name:** Keensburg / Mullins, Brian S.  
**Date of Inspection:** January 30, 2012  
**Inspector:** Garrison Gross

**Subject:** Open Dump Site Inspection at Brian S. Mullins Property

**General Remarks:** An Open Dump Site Inspection was conducted on Monday, January 30, 2012, at the Brian S. Mullins site. The inspection was conducted by Garrison Gross representing the Illinois EPA Bureau of Land. The property is located at 9552 Market Street in Keensburg, Illinois 62852. The inspection was performed as a follow up to a previous inspection conducted on July 26, 2011. Weather conditions at the time of the inspection were sunny skies, 45° F, with a light breeze. Surface conditions were damp to muddy.

**Inspection Findings:** The inspection began at approximately 9:25 a.m. Two offsite photographs were taken from Main Street (back yard of the property) (photos 001 and 002). Although it appeared that some cleanup had occurred, more than 12 used / waste tires were observed and it appeared that additional open burning had occurred at the site. The inspector entered the site from Market Street. The windows to the residence were boarded up and the door was pad locked from the outside. It appeared that the home was no longer habitable. I continued the inspection by walking and photographing the site.

Remnants of a partially demolished structure remained at the site (photo 003). Demolition wastes including but not limited to: bricks, concrete blocks and insulation were observed. Evidence of continued open burning was observed (now in two locations). Partially burned shingles, insulation, domicile waste and tires beads were observed in the ash (photos 004 – 006). Some landscape waste was present and it appeared that waste had been piled up to burn out a stump. Seventeen (17) used / waste tires were observed at the site. Most of the tires were off the rim and had accumulated water and organic matter (photo 007 and 008). Approximately 15 cubic yards of waste remained at the site. The inspection ended at approximately 9:30 a.m.

**Additional Remarks:** Information concerning property ownership / control was obtained through tax records from the Supervisor of Assessment’s Office in Wabash County. The tax bill is mailed to Brian Mullins, P.O. Box 192 Keensburg, Illinois 62852. The property is referred to as parcel 03-213-09-309-013.

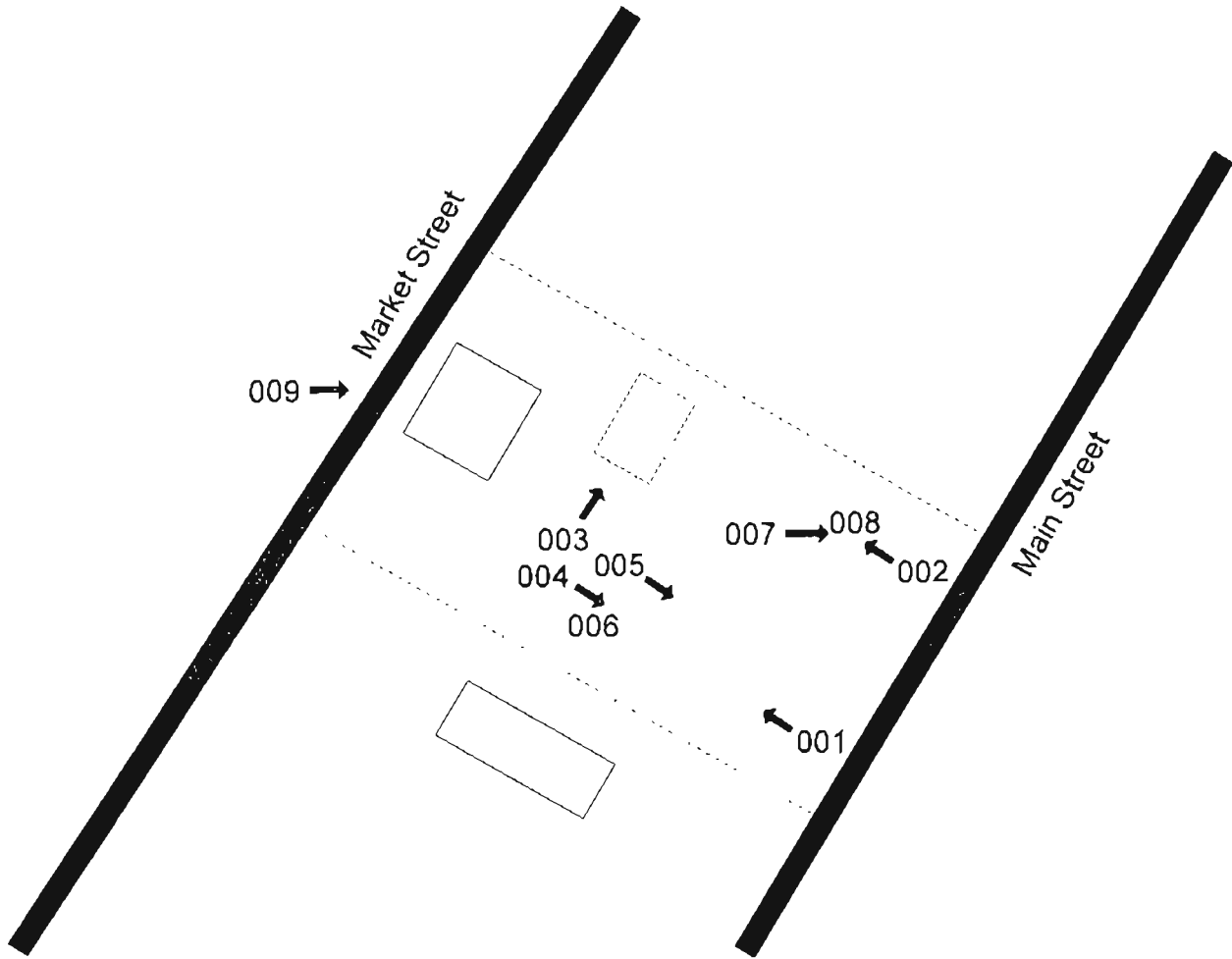
**Summary of Apparent Violations:**

9(a)	21(d)(2)	21(p)(7)	812.101(a)
9(c)	21(e)	55(a)(1)	
21(a)	21(p)(1)	55(a)(2)	
21(d)(1)	21(p)(3)	55(k)(1)	



State of Illinois  
ENVIRONMENTAL PROTECTION AGENCY  
Inspection Site Sketch

Date: January 30, 2012  
BOL ID #: 1850155002 – Wabash County  
Site Name: Keensburg / Mullins, Brian S.  
Inspector: Garrison Gross  
Not Drawn to Scale: All Locations Are Approximate





## DIGITAL PHOTOGRAPHS



**Date:** 01/30/2011  
**Time:** 9:26 a.m.  
**Direction:** northwest  
**Photo by:** Garrison Gross  
**Exposure #:** 001  
**Comments:** offsite photo



**Date:** 01/30/2012  
**Time:** 9:26 a.m.  
**Direction:** northwest  
**Photo by:** Garrison Gross  
**Exposure #:** 002  
**Comments:** offsite photo

**File Names:** 1850155004~01302012-[Exp. #].jpg



## DIGITAL PHOTOGRAPHS



**Date:** 01/30/2012  
**Time:** 9:28 a.m.  
**Direction:** northeast  
**Photo by:** Garrison Gross  
**Exposure #:** 003  
**Comments:** demolition  
debris / domicile waste



**Date:** 01/30/2012  
**Time:** 9:28 a.m.  
**Direction:** southeast  
**Photo by:** Garrison Gross  
**Exposure #:** 004  
**Comments:** evidence of  
open burning

File Names: 1850155004~01302012-[Exp. #].jpg



## DIGITAL PHOTOGRAPHS



**Date:** 01/30/2012  
**Time:** 9:28 a.m.  
**Direction:** southeast  
**Photo by:** Garrison Gross  
**Exposure #:** 005  
**Comments:** evidence of open burning



**Date:** 01/30/2012  
**Time:** 9:29 a.m.  
**Direction:** ground  
**Photo by:** Garrison Gross  
**Exposure #:** 006  
**Comments:** evidence of open burning

File Names: 1850155004~01302012-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 01/30/2012  
**Time:** 9:29 a.m.  
**Direction:** east  
**Photo by:** Garrison Gross  
**Exposure #:** 007  
**Comments:** used / waste tires



**Date:** 01/30/2012  
**Time:** 9:29 a.m.  
**Direction:** ground  
**Photo by:** Garrison Gross  
**Exposure #:** 008  
**Comments:** water in tire

File Names: 1850155004~01302012-[Exp. #].jpg



## DIGITAL PHOTOGRAPHS



**Date:** 01/30/2012  
**Time:** 9:30 a.m.  
**Direction:** southeast  
**Photo by:** Garrison Gross  
**Exposure #:** 009  
**Comments:** house

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STATE OF ILLINOIS  
Pollution Control Board

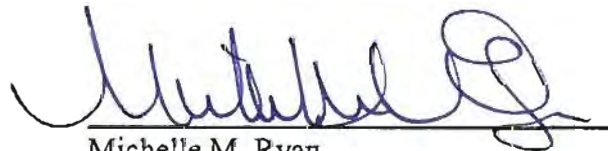
### PROOF OF SERVICE

I hereby certify that I did on the 21st day of March 2012, 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: Brian S. Mullins  
P.O. Box 192  
Keensburg, IL 62852

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

THIS FILING SUBMITTED ON RECYCLED PAPER