

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

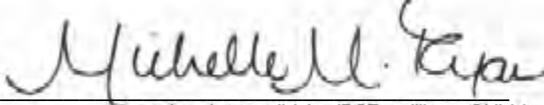
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 2017-
)	
v.)	(IEPA No. 160-17-AC)
)	
DARREN A. & CYNTHIA J. BAILEY)	
TRUST)	
)	
Respondent.)	

NOTICE OF FILING

To: Darren A. & Cynthia J. Bailey Trust
6121 Xenia Iola Road
Xenia, Illinois 62899

PLEASE TAKE NOTICE that on this date I electronically filed 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,


e-signature valid for IPCB e-filings ONLY

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: October 6, 2017

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	AC 2018-
)	
v.)	(IEPA No. 160-17-AC)
)	
DARREN A. & CYNTHIA J. BAILEY TRUST)	
)	
Respondent.)	

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 (2014).

FACTS

1. That the Darren A. and Cynthia J. Bailey Trust ("Respondent") is the present owner of a facility located 6121 Xenia lola Road, in Xenia, Clay County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Xenia/Bailey Darren A. & Cynthia J. Trust.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0258035005.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on August 17, 2017, Garrison Gross 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.
5. That on October 6, 2017, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 3000 3246.

VIOLATIONS

Based upon direct observations made by Garrison Gross during his August 17, 2017 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) (2014).

- (2) 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) (2014).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2014), 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 November 15, 2017, 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 (2014), 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) (2014), 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 (2014). 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.



Alec Messina, Director
Illinois Environmental Protection Agency

Date: 10/5/17

Prepared by: Dawn A. Hollis, 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

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
DARREN A. & CYNTHIA J. BAILEY)
TRUST)
)
Respondent.)

AC 2018-
(IEPA No. 160-17-AC)

FACILITY: Bailey, Darren A. &
& Cynthia J. Trust

SITE CODE NO.: 0258035005

COUNTY: Clay

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: August 17, 2017

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

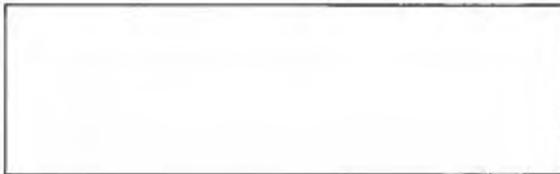
NOTE

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.

Illinois Environmental Protection Agency Open Dump Inspection Checklist

County: Clay BOL #: 0258035005 Region: 7 - Marion
 Site Name: Xenia / Bailey, Darren A. & Cynthia J. Trust
 Site Address: 4133 Old Highway 50 City: Xenia
 Inspector: Garrison Gross Interviewed: Darren Bailey via telephone
 Date: 08/17/2017 Current Est. 250 cubic yards
 Complaint #: C-17-094-M Waste Amt. _____

Responsible Party Mailing Address(es) and Phone Number(s):
 Property Owner:
 Darren A. & Cynthia J. Bailey Trust
 6121 Xenia Iola Road
 Xenia, Illinois 62899
 618-237-4440



Section	Description	Status
Illinois Environmental Protection Act Requirements		
9(a)	Cause, threaten, or allow air pollution in Illinois	
9(c)	Cause or allow open burning	
12(a)	Cause, threaten, or allow water pollution in Illinois	
12(d)	Create a water pollution hazard	
21(a)	Cause or allow open dumping	V
21(d)	Conduct any waste-storage, waste-treatment, or waste- disposal operation:	
(1)	Without a permit	V
(2)	In violation of any regulations or standards adopted by the Board	V
21(e)	Dispose, treat, store, or abandon waste, or transport waste into Illinois for such activities, except at a site meeting Act and regulatory requirements	V
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	V
(2)	Scavenging	
(3)	Open Burning	
(4)	Deposition of waste in standing or flowing waters	
(5)	Proliferation of disease vectors	
(6)	Standing or flowing liquid discharge from the dump site	
(7)	Deposition of general construction or demolition debris as defined at §3.160(a) or clean construction or demolition debris as defined at §3.160(b)	V
55(a)	No person shall	
(1)	Cause or allow open dumping of any used or waste tire	
(2)	Cause or allow open burning of any used or waste tire	

55(k)	No person shall	
(1)	Cause or allow water to accumulate in used or waste tires	I
(4)	Transport used or waste tires in violation of the registration and placarding requirements	
Electronic Products Recycling and Reuse Act (415 ILCS 150) Requirements		
95(c)	No person may knowingly cause or allow the mixing of a CED or other listed device with waste that is intended for disposal by burning or incineration	
95(d)	No person may knowingly cause or allow the burning or incineration of a CED or other listed device	
35 Illinois Administrative Code Subtitle G Requirements		
812.101(a)	Failure to submit an application for a permit to develop and operate a landfill	V
722.111	Hazardous waste determination	
808.121	Special waste determination	I
809.302(a)	Acceptance of special waste from a waste transporter without a waste hauling permit and manifest	
815.201	Failure to file an initial facility report with the Agency to provide information concerning location and disposal practices of the facility	
Other Requirements		
Apparent violation of: <input type="checkbox"/> PCB order <input type="checkbox"/> Circuit Court order		
Case Number _____ ; Order entered on _____		
Other		
739.122(c)(1)	Failure to properly label used oil container(s)	I
739.124	Improper off-site shipment / transportation of used oil	I

Notes

1. Key to Status: V=Violated; C=Continuing violation from previous evaluation; V/C=Newly violated and continuing from previous evaluation; V/R=Violated and resolved during same inspection; R=Resolved violation; NA=Not applicable at the time of the inspection; NE=Not evaluated at the time of the inspection
2. The provisions of §§21(o)–(p) and §55(k) of the Environmental Protection Act are enforceable either by administrative citation under §31.1 or by complaint under §31. Violations of the Electronic Products Recycling and Reuse Act are enforceable by administrative citation under §20(k) or referral to the Attorney General pursuant to §20(a).
3. This inspection was conducted in accordance with §§4(c)–(d) of the Environmental Protection Act (415 ILCS 5/4(c) and (d)) and §20(a) of the Electronic Products Recycling and Reuse Act (415 ILCS 150/20(a)).



**Illinois Environmental Protection Agency
Bureau of Land – Field Operations Section – Marion
Narrative Inspection Report**

LPC #: 0258035005 – Clay County

Site Name: Xenia / Bailey, Darren A. & Cynthia J. Trust

Inspection Date: August 17, 2017

Inspector: Garrison Gross

Subject: Open Dump Inspection at Darren A. & Cynthia J. Bailey Site

General Remarks: An Open Dump Complaint Inspection was conducted on Thursday, August 17, 2017, due to telephone complaint C-17-094. Two sites were visited as a result of this complaint. The first site was a farm property located at 4133 Old Highway 50, in rural Xenia. This property is approximately 3.2 miles east of town. The site is owned by Darren A. & Cynthia J. Trust. The second site was the former Xenia Village Hall, a commercial property, located at 110 Front Street in Xenia. This property is owned by the Village of Xenia. Weather conditions at the time of the inspections were overcast skies, 74°F, with a light breeze. The onsite inspection of the Bailey site began at 9:17a.m. and concluded at 9:30 a.m. Apparent violations were found which are discussed below.

Initial Inspection of Village Hall: At approximately 9:10 a.m., I drove past 110 Front Street in Xenia. A building had been recently demolished at that location. The concrete foundation was all that remained. Based on the surrounding buildings, the demolition site appeared to have been a commercial building.

Inspection of Bailey Site: I drove to the reported dump location at Old Highway 50 and observed piles of demolition debris at the northwest corner of the property. Two barns and several grain silos were situated on the property. It did not appear that any onsite demolition activity had generated the debris. I entered the property and continued the inspection by walking and photographing the site. Nine (9) photographs were taken.

General Construction / Demolition Debris: Nine (9) piles of general construction / demolition debris had recently been dumped at the site. The waste piles were dumped at the northwest end of a gravel lot adjacent to two silos and two semi-box trailers. The demolition debris consisted of, but was not limited to: solid bricks, hollow core “grid shaped” bricks, concrete blocks, dimensional lumber, and roofing materials (photos 001-006). Some of the bricks and blocks were painted. The paint colors were white and mint green. The roofing material was in wide pieces similar to the kind that comes on a roll. The roofing material was black in color and some pieces had fibrous edges. The amount of debris was estimated to be ~100 cubic yards.

Clean Construction / Demolition Debris: Six (6) piles of clean construction / demolition debris had been dumped at the site. The waste piles were dumped southeast of four grain silos. The demolition debris consisted of, but was not limited to: concrete slabs, concrete blocks, and stone (photo 007). None of the material appeared to be painted. The concrete material appeared to have been there for several years based on overgrowth in weeds and trees (photo 008). The amount of debris was estimated to be 130 cubic yards.

Domestic Waste and Other Open Dumped Items: Various open dumped domestic “household” and trash-like items were cluttered around the entrance to one of the farm buildings (photo 009). Open dumped items included but were not limited to: pallets, clothing, empty dog food bags, plastic jugs, plastic buckets, laundry baskets, plastic tubs, furniture, bathroom tub, household trash, and a deer head. The items were exposed to the elements and did not appear to be in use.

Inspection of 110 Front Street: I returned to the site of the old village hall at 9:35 a.m. and photographed the concrete slab and remaining debris. 12 x 12 floor tile was found on part of the slab and on the ground. The remains of hollow core “grid shaped” bricks were found between two slabs of concrete. It appeared the bricks

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Xenia / Bailey, Darren A. & Cynthia J. Trust

August 17, 2017

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were used as a structural wall. White and mint green paint was found on some of the broken pieces of brick and concrete. Five (5) photographs were taken.

Interview of Village Officials: I drove to the new village hall which is in the old Xenia Elementary School located at 601 Church Street, Xenia, Illinois. I met with Mayor Mitch Payne and Village Superintendent Pat Blanton. I informed them of the reason for the visit. Mayor Payne provided details about the demolition. He said Darrin Hout volunteered to demolish the building. He said Mr. Hout owned the grain elevator in town and had a track-hoe. The building had been demolished about two weeks ago and Mr. Hout was not paid to tear the building down. Darren Bailey volunteered to haul off the debris and was reportedly going to use it as fill material. He wasn't paid either. Neither one of them knew where the material was hauled to and they didn't know it was supposed to be taken to a landfill. I briefly informed them about general demolition debris vs. clean demolition debris. I asked them to contact Ron Robeen with Illinois EPA Bureau of Air to get guidance on cleanup and disposal procedures before hauling it to a landfill. I asked about the type of material and color of the building. They confirmed that it had concrete and "clay tile walls" and some of the walls were painted white and mint green. They were unaware that an asbestos notification was required for commercial buildings. They didn't think the building contained any asbestos because it was made of brick and they didn't remember seeing any pipes wrapping. It told them asbestos was used up until the 70's in all kinds of products including floor tile, floor adhesive "mastic", caulking around windows and doors, and roofing materials. They agreed to cooperate and take care of the problem.

Telephone Interview of Darrin Hout: I spoke to Mr. Hout later that morning. I informed him of the complaint. He admitted that he knocked the building down as a curtesy to the village. He said he left the debris on the site after he demolished it. He was unaware of the asbestos notification requirements.

Telephone Interview of Darren Bailey: I spoke to Mr. Bailey later that afternoon. I informed him of the complaint. He recalled speaking with me in 2014 concerning his open dump on the same farm. He admitted that the village hall debris had been hauled to his farm. He said there was a miscommunication with his workers and they took the debris without inspecting it. He said he had intended to use it in a wash area as fill. I informed him that the concrete and brick was not considered clean demolition debris because it was painted and contained lumber and roofing materials. I informed him that brick was not authorized to be used as rip-rap. Because of these issues, the debris would have to be disposed at a landfill. Because no one had filed an asbestos notification, I asked him to contact Ron Robeen with Illinois EPA Bureau of Air to get guidance on cleanup and disposal procedures before hauling it to a landfill. Mr. Bailey said he didn't know who the Mayor of Xenia was and asked for his name. I gave him the information. I asked him how long the piles of concrete had been onsite. Mr. Bailey said they had been there at least 6 or 7 years. I informed him that clean concrete and stone could be used as rip-rap but it should be used within a year of receipt and not speculatively accumulated. I inquired about he the "junk" scattered around the entrance to the block barn building. Mr. Bailey said he had a tenant living there. He said she liked to collect things. I informed him that the waste around the barn also need to be cleaned up. He agreed to cooperate and clean up the site.

Additional Remarks: Information concerning property ownership / control was obtained through tax records available online from the Supervisor of Assessment's Office in Clay County. The tax bill for parcel 10-31-300-008 (2.49 acres) is mailed to Darren A. & Cynthia J. Bailey Trust, 6121 Xenia Iola Road, Xenia, Illinois 62899. Based on Clay County Supervisor of Assessment maps, it appears the debris is deposited on the Bailey property

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Xenia / Bailey, Darren A. & Cynthia J. Trust

August 17, 2017

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and on the farm parcel to the north owned by Fletcher Durbin. The tax bill for parcel 10-31-300-009 (157.86 acres) is mailed to Fletcher M. Durbin, 1323 W. Addison Street, Chicago, Illinois 60613. The owner information for parcel 13-10-104-002 is shown as Village of Xenia, Village Clerk, Xenia, Illinois 62899

Estimated Waste:

open dumped demolition debris = 100 cubic yards

open dumped clean demolition debris = 130 cubic yards

open dumped household waste / trash = 20 cubic yards

Total Waste = 250 cubic yards

Summary of Apparent Violations:

21(a) – no person shall cause or allow the open dumping of any waste

21(d)(1) – conduct a waste-storage, waste-treatment, or waste-disposal operation without a Permit

21(d)(2) – conduct waste-storage, waste-treatment, or waste-disposal operation in violation of the regulations

21(e) – dispose, treat, store, abandon any waste, or transport any waste into this State....

21(p)(1) – open dump – cause or allow open dumping of litter (demo debris)

21(p)(7) – open dump – cause or allow open dumping of general construction or demolition debris

812.101(a) – failure to submit an application for a permit to develop and operate a landfill



Illinois Environmental Protection Agency
Bureau of Land – Field Operations Section – Marion
Inspection Site Sketch

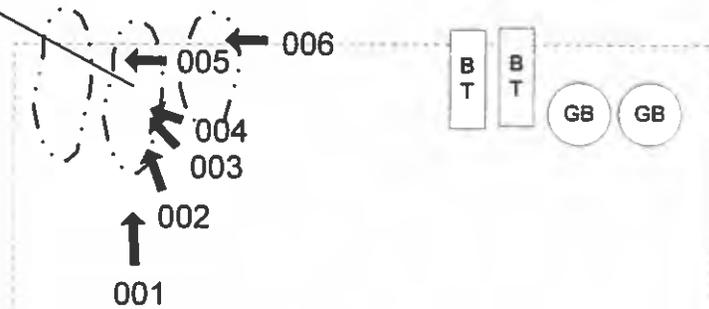
LPC #: 0258035005 – Clay County
Site Name: Xenia / Bailey, Darren A. & Cynthia J. Trust
Inspection Date: August 17, 2017
Inspector: Garrison Gross
Not Drawn to Scale: *All Locations Are Approximate*

Map Key

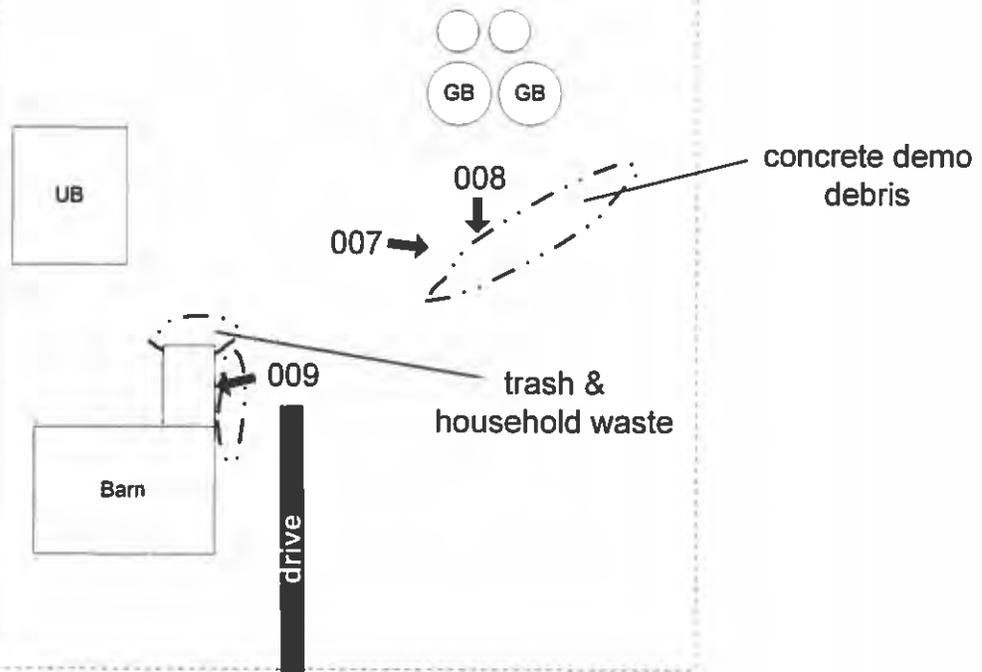
- Parcel Boundary
- Photo Direction
- 000 Photo Number
- Road
- - - Fence
- Waste
- Building
- BT Box Trailer
- GB Grain Bin

Parcel # 10-31-300-009
Durbin, Fletcher M.

mixed demo
debris piles



Parcel # 10-31-300-008
Bailey, Darren A. & Cynthia J Trust



Xenia 3.2 miles

Old Highway 50

Flora 5.2 miles



DIGITAL PHOTOGRAPHS

File Names: 0258035005~08172017-[001-009].jpg



Date: 08/17/2017
Time: 9:20 a.m.
Direction: north
Photo by: G. Gross
Exposure #: 001
Comments: general
demolition debris



Date: 08/17/2017
Time: 9:21 a.m.
Direction: north
Photo by: G. Gross
Exposure #: 002
Comments: general
demolition debris;
painted bricks and
lumber



DIGITAL PHOTOGRAPHS

File Names: 0258035005~08172017-[001-009].jpg



Date: 08/17/2017
Time: 9:21 a.m.
Direction: northwest
Photo by: G. Gross
Exposure #: 003
Comments: general
demolition debris;
painted bricks,
lumber, and roofing
material



Date: 08/17/2017
Time: 9:22 a.m.
Direction: west
Photo by: G. Gross
Exposure #: 004
Comments: general
demolition debris;
roofing material with
fibrous edge



DIGITAL PHOTOGRAPHS

File Names: 0258035005~08172017-[001-009].jpg



Date: 08/17/2017
Time: 9:23 a.m.
Direction: west
Photo by: G. Gross
Exposure #: 005
Comments: general
demolition debris;
roofing material with
fibrous edge



Date: 08/17/2017
Time: 9:24 a.m.
Direction: west
Photo by: G. Gross
Exposure #: 006
Comments: general
demolition debris;
painted bricks and
blocks



DIGITAL PHOTOGRAPHS

File Names: 0258035005~08172017-[001-009].jpg



Date: 08/17/2017
Time: 9:27 a.m.
Direction: east
Photo by: G. Gross
Exposure #: 007
Comments: clean
demolition debris;
old piles



Date: 08/17/2017
Time: 9:28 a.m.
Direction: south
Photo by: G. Gross
Exposure #: 008
Comments: clean
demolition debris;
old piles



DIGITAL PHOTOGRAPHS

File Names: 0258035005~08172017-[001-009].jpg



Date: 08/17/2017
Time: 9:29 a.m.
Direction: west
Photo by: G. Gross
Exposure #: 009
Comments: open
dumped household
items and trash

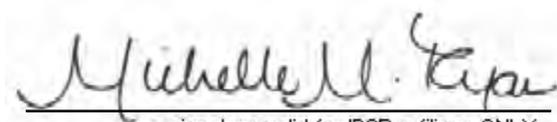
PROOF OF SERVICE

I hereby certify that I did on the 6th day of October, 2017, serve by Certified Mail, Return Receipt Requested, with postage thereon 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: Darren A. & Cynthia J. Bailey Trust
6121 Xenia Iola Road
Xenia, Illinois 62899

and the original via electronic filing on the same date

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



e-signature valid for IPCB e-filings ONLY

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