

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

AUG 01 2005

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,))
))
v.))
))
ALVA MCDOWELL, d/b/a MCDOWELL)
AUCTION SERVICE,)
))
))
))
Respondent.)

AC 06-3
(IEPA No. 191-05-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 Alva McDowell, d/b/a McDowell Auction Service ("Respondent") is the present owner and operator of a facility located at 614 South Maple Street, Mulberry Grove, Bond County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Mulberry Grove/McDowell Auction Service.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0050105007.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on June 15, 2005, Kendall Couch of the Illinois Environmental Protection Agency's Collinsville 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 Kendall Couch during the course of his June 15, 2005 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 August 30, 2005, 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 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 wcc*
Illinois Environmental Protection Agency

Date: 7/28/05

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

REMITTANCE FORM

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AUG 01 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
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Complainant,)
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v.)
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ALVA MCDOWELL, d/b/a MCDOWELL)
AUCTION SERVICE,)
)
)
Respondent.)

AC

(IEPA No. 191-05-AC)

FACILITY: Mulberry Grove/McDowell Auction Service SITE CODE NO.: 0050105007
COUNTY: Bond CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: June 15, 2005

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

AFFIDAVIT

IN THE MATTER OF:

Mulberry Grove/McDowell Auction Service)

Alva McDowell)

Respondent.)

IEPA DOCKET NO. 191-05-AC

Affiant, Kendall Couch, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Bureau of Land of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On June, 2005, between 1:40pm and 1:50pm, Affiant conducted an inspection of the open dump in Bond County, Illinois, known as Mulberry Grove/McDowell Auction Service, Illinois Environmental Protection Agency Site No. 0050105007.
3. Affiant inspected said Mulberry Grove/McDowell Auction Service open dump by an on-site inspection which included walking the site and taking photographs.
4. As a result of the activities referred to in Paragraph 3 above, Affiant assisted in the completion of the Inspection Report form attached hereto and made a part hereof, which, to the best of the Affiant's knowledge and belief, is an accurate representation of Affiant's observation and factual conclusions with respect to said Mulberry Grove/McDowell Auction Service open dump.

Kendall Couch

Kendall Couch

Subscribed and Sworn to before me
this 21st day of June 2005

Paula Ottensmeier

Notary Public



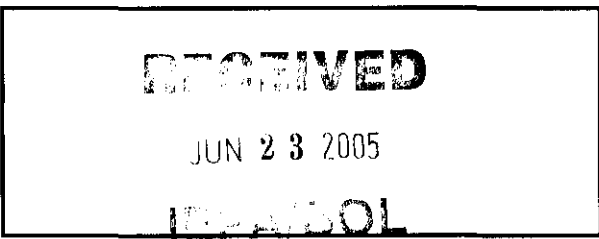
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Bond LPC#: 0050105007 Region: 6 - Collinsville
 Location/Site Name: Mulberry Grove/McDowell Auction Service
 Date: 06/15/2005 Time: From 1:40pm To 1:50pm Previous Inspection Date: 03/22/2000
 Inspector(s): Kendall Couch-Gina Search Weather: Sunny, dry, 85 degrees F.
 No. of Photos Taken: # 7 Est. Amt. of Waste: 15 yds³ Samples Taken: Yes # No
 Interviewed: No one present Complaint #: NA

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

McDowell Auction Service
 Attn. Alva McDowell
 P.O Box 35
 Mulberry Grove, IL. 62262
 Phone 618/425-3410-618/267-4310




	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
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 # 0050105007

Inspection Date: 06/15/2005

	(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 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 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"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>



Signature of Inspector(s)

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.

LPC# 0050105007-Bond County
Mulberry Grove/McDowell Auction Service
Date of Inspection: June 15, 2005
Prepared by: Kendall Couch
Date: June 21, 2005

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IEPA/BOL

Narrative

General Remarks

On June 15, 2005, Gina Search (IEPA-BOL) and I went to Mulberry Grove, Illinois to investigate a complaint of open burning. The complaint alleged that McDowell Auction Service was burning miscellaneous items on its property in southern Mulberry Grove. The weather was sunny, dry and 85° F. The owner of this property, Alva McDowell, was not present during this inspection.

Site History

This site is a large field containing farm equipment and other miscellaneous sale items. Mr. McDowell was issued a Violation Notice (L-2000-01159) on May 23, 2000 for open dumping and open burning. The open dumping allegedly occurred on the southwest corner of Mr. McDowell's Auction Service grounds. According to Mr. McDowell this ground is owned by Illinois Department of Transportation. Mr. McDowell cleaned up the open dump area but did not submit a response letter or receipts to verify proper disposal.

On July 9, 2002, I went to Mulberry Grove, Illinois to investigate a complaint of open burning. The complaint alleged that McDowell Auction Service was burning miscellaneous items on its property in southern Mulberry Grove. Alva McDowell, owner and operator was not present at time of this inspection.

When I arrived at the site I notice a small amount of smoke coming from the southeastern part of McDowell Auction Service. The smoke was originating from two dumpsters. The dumpsters located in the middle of a burned area. The burned area was approximately 20 by 30 yards in diameter.

Larry Lattig was present and said he was burning some brush. When I questioned Mr. Lattig about the dark color of the smoke he said some plastic may have gotten into one of the dumpsters. Another worker on the site walked up and said that they were burning counter tops and the formica was causing the black smoke.

Mr. Lattig mentioned that one or two tires may have gotten into one of the dumpster by mistake. One of the dumpsters was still completely ignited while the other dumpster was smoldering. There was a large amount of burning debris on the side of this second dumpster as well. Mr. Lattig was given a verbal warning during the July 9, 2002 inspection. No formal enforcement was pursued at time of the July 9, 2002 inspection.

On April 27, 2005, Ron Robeen (IEPA-BOA) and I went to Mulberry Grove to investigate a complaint of open burning. When we arrived we observed a dumpster, a rusted 55-gallon drum and burned area. The burned area appeared to be approximately 10 feet by 15 feet in diameter. Around the burned area was other miscellaneous materials on the ground and on a trailer.

The materials included several tanks, lawn furniture, a space heater and wood pallets. No one was present at the site. Approximately 10 cubic yards of off-site generated waste was observed during this inspection. This facility is a commercial auction business. Two pictures were taken from the south end of this property. Access to this property was limited due to a barbed wire fence.

Inspection

On the morning of June 15, 2005, I spoke to Mr. McDowell via phone. Mr. McDowell gave me verbal permission over the phone to access his property.

On June 15, 2005, Gina Search and I returned to this site. When we went to the site, I observed a dumpster containing burned materials as well as unburned material. It appeared that the dumpster had been used for burning materials in the past.

On the west side of this dumpster, was a burned area approximately 10 by 15 feet in diameter. Miscellaneous items were observed in this burned area. Materials in this burned area included cans, metal, wood, tree branches, residential trash and other miscellaneous materials. This area also contained an unburned space heater and some furniture.

On the south end of this area were several tires. One of the tires was not on a rim and contained water. No mosquito larvae were observed. Several gas cylinders were also observed in this area.

At the conclusion of the inspection, I noted several violations pursuant to the Illinois Environmental Protection Act:

Violations of Sections 9(a), 9(c), 21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1) and 21(p)(3) of the Illinois Environmental Protection Act will be alleged.

cc: Division File
cc: Collinsville Region
cc: BOA

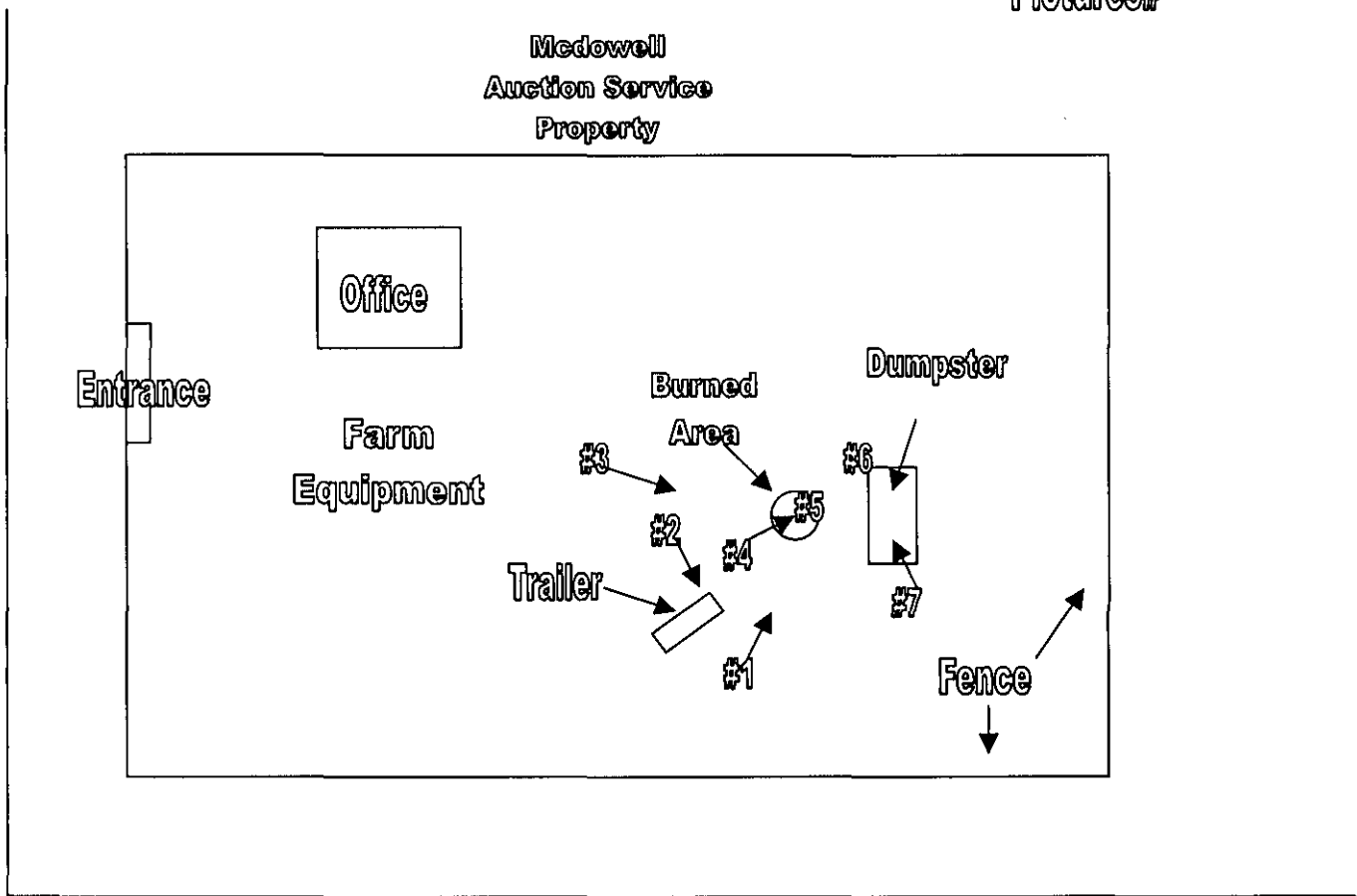
State of Illinois
Environmental Protection Agency
Facility Diagram

Date of Inspection: June 15, 2005 Inspector: Kendall Couch
Site Code: 0050105007 County: Bond
Site Name: McDowell Auction Service Time: 1:40pm

North ↑
Pictures# →

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Illinois Route 140

LPC #0050105007-Bond County
Mulberry Grove/McDowell Auction Service
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-001
COMMENTS:



DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-002
COMMENTS:



LPC #0050105007-Bond County
Mulberry Grove/McDowell Auction Service
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
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COMMENTS:



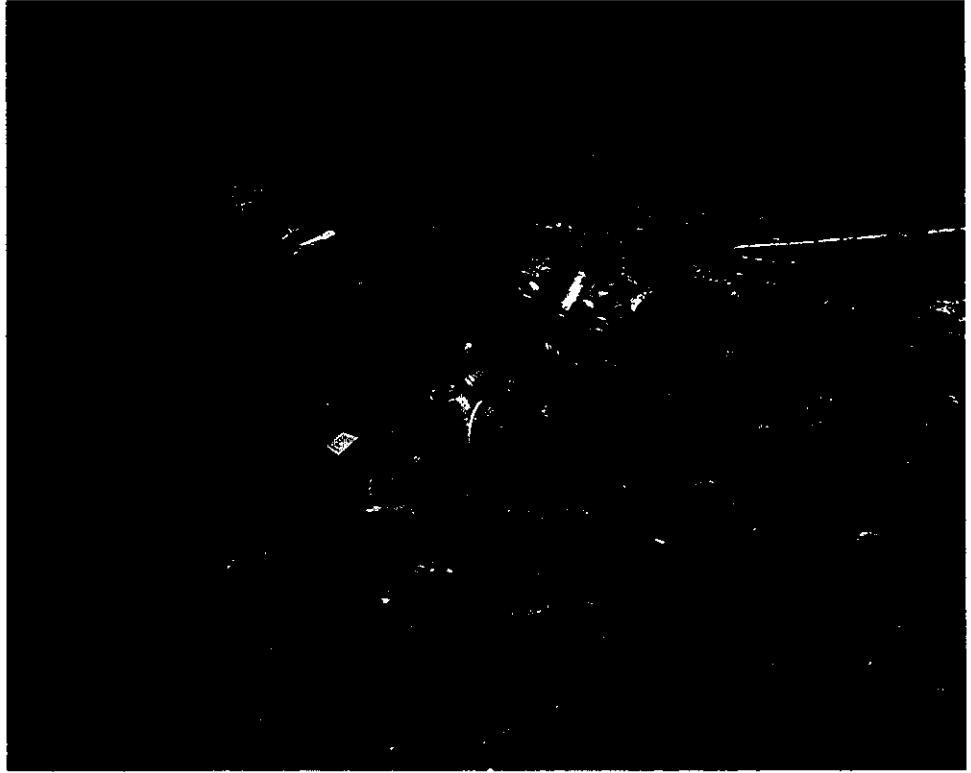
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DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-004
COMMENTS:



LPC #0050105007-Bond County
Mulberry Grove/McDowell Auction Service
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-005
COMMENTS:



DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-006
COMMENTS:



LPC #0050105007-Bond County
Mulberry Grove/McDowell Auction Service
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: June 15, 2005
TIME: 1:40pm-1:50pm
DIRECTION:
PHOTO by: Kendall Couch
PHOTO FILE NAME:
0050105007~06152005-007
COMMENTS:



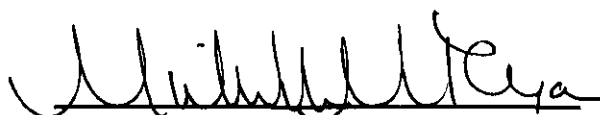
PROOF OF SERVICE

I hereby certify that I did on the 28th day of July 2005, 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: Alva McDowell
P.O. Box 35
Mulberry Grove, Illinois 62262

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

THIS FILING SUBMITTED ON RECYCLED PAPER