

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
LOWELL NULL, d/b/a MAB PALLETS,)
)
Respondents.)

PCB No. 11-26
(Enforcement - Land)

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on August 18, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601, a MOTION FOR SUMMARY JUDGMENT AGAINST LOWELL NULL, d/b/a MAB PALLETS, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: *Rachel R. Medina*
Rachel R. Medina
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: August 18, 2011

CERTIFICATE OF SERVICE

I hereby certify that I did on August 18, 2011, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING and MOTION FOR SUMMARY JUDGMENT AGAINST LOWELL NULL d/b/a MAB PALLETS upon the persons listed on the Service List.



Rachel R. Medina
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Lowell Null
d/b/a Mab Pallets
1100 South Second Avenue
Hoopeston, IL 60942

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
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v.)	PCB NO. 11-26
)	(Enforcement - Land)
LOWELL NULL, d/b/a)	
MAB PALLETS)	
)	
Respondent.)	

MOTION FOR SUMMARY JUDGMENT
AGAINST LOWELL NULL d/b/a MAB PALLETS

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Supreme Court Rules 191 and 192, Section 2-1005 of the Code of Civil Procedure, 735 ILCS 5/2-1005, and Section 101.516 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.516, hereby moves for Summary Judgment against the Respondent, LOWELL NULL d/b/a MAB PALLETS, for violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2010), alleged in this action.

INTRODUCTION

On December 9, 2010, the People filed its Complaint against the Respondent, Lowell Null. The People's Complaint alleged violations of Sections 21(a), 21(e), 9(a), 9(c), and 21(p)(3) of the Act, 415 ILCS 5/21(a), 21(e), 9(a), 9(c), and 21(p)(3) (2010). No Answer or responsive pleadings to the Complaint have been filed by the Respondent and, therefore, no affirmative defenses have been plead.

On June 17, 2011, the People served Respondent with a Request For Admission of Fact and Genuineness of Documents. The Respondent has failed to respond to the Request For Admission of Fact and Genuineness of Documents.

All statements of fact in the Complaint should be taken as admitted pursuant to Section 103.204(d) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d). All matters of fact and the genuineness of each document in the Request For Admission of Fact and Genuineness of Documents ("Exhibit 1") should be taken as admitted pursuant to Section 101.618(f) of the Board's Procedural Rules, 35 Ill. Adm. Code 101.618(f). Thus, the genuineness of each of the following documents attached to the Request For Admission of Fact and Genuineness of Documents should be taken as admitted:

1. Illinois Environmental Protection Agency ("Illinois EPA") inspection report with attachments dated May 29, 2007 ("Exhibit 1-A");
2. Five (5) receipts documenting the sale of chipped wood or mulch by Lowell Null dated September 7, 2007, September 9, 2007, March 17, 2008, March 19, 2008, and April 1, 2008 ("Exhibit 1-B");
3. Illinois EPA inspection report with attachments dated January 22, 2008 ("Exhibit 1-C");
4. Illinois EPA inspection report with attachments dated May 19, 2009 ("Exhibit 1-D");
5. Illinois EPA inspection report with attachments dated May 18, 2010 ("Exhibit 1-E");
6. Illinois EPA inspection report with attachments dated July 20, 2010 ("Exhibit 1-F"); and,
7. Illinois EPA inspection report with attachments dated March 23, 2010 ("Exhibit 1-G").

The Respondent's admissions, together with the exhibits supporting this motion, contain all material facts necessary to establish liability on Count I and Count II of the Complaint and the People's entitlement to penalties. Accordingly, since there is no genuine issue of material fact, the People are entitled to a judgment as a matter of law.

LEGAL STANDARD FOR SUMMARY JUDGMENT

Section 101.516(b) of the Board's Procedural regulations, 35 Ill. Adm. Code 101.516(b), provides as follows:

- (b) If the record, including pleadings, depositions and admissions on file, together with any affidavits, shows that there is no genuine issue of material fact, and that the moving party is entitled to judgment as a matter of law, the Board will enter summary judgment.

A Motion for Summary Judgment should be granted when the pleadings reveal that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. 35 Ill. Adm. Code 101.516(b); *People ex. rel. Madigan v. Lincoln, Ltd.*, 383 Ill. App. 3d 198, 204; 890 N.E. 2d 975, 980 (1st Dist. 2008). A genuine issue of material fact exists when "the material facts are disputed, or, if [they] are undisputed, reasonable persons might draw different inferences from the undisputed facts." *Adames v. Sheahan*, 233 Ill. 2d 276, 296, 909 N.E.2d 742, 754 (2009).

Inferences or conclusions drawn from the evidentiary material before the court must be reasonable; courts are not required to adduce remote factual possibilities in favor of the opponent of such a motion. *Gehrman v. Zajac*, 34 Ill. App. 3d 164, 166; 340 N.E.2d 184, 185 (1st Dist. 1974). The use of summary judgment is encouraged under Illinois law to facilitate litigation and avoid unnecessary trials. *Lincoln*, 383 Ill. App. 3d at 204; 890 N.E. 2d at 980. As was noted by the Supreme Court in *Allen v. Meyer*, 14 Ill. 2d 284, 292; 152 N.E. 2d 576, 580 (1958):

Summary judgment procedure is an important tool in the administration of justice. Its use in a proper case, wherein is presented no genuine issue as to any material fact, is to be encouraged. The benefits of summary judgment in a proper case insure not only to the litigants, in the saving of time and expense, but to the community in avoiding congestion of trial calendars and the expenses of unnecessary trials.

BURDEN OF PROOF

Section 31(e) of the Act, states the burden of proof to enforcement proceedings before the Board:

- (e) In hearings before the Board under this Title the burden shall be on the Agency or other complainant to show either that the respondent has caused or threatened to cause air or water pollution or that the respondent has violated or threatens to violate any provision of this Act or any rule or regulation of the Board or permit or term or condition thereof. If such proof has been made, the burden shall be on the respondent to show that compliance with the Board's regulations would impose an arbitrary or unreasonable hardship.

415 ILCS 5/31(e) (2010). The Board should find in the State's favor if it has proven each element of the claim by a preponderance of the evidence. *People v. Chalmers*, PCB 96-111, slip op. at 4 (Jan. 6, 2000); *Processing and Books, Inc. v. PCB*, 64 Ill. 2d 68, 75-76, 351 N.E.2d 865 (1976); *Village of South Elgin v. Waste Management of Illinois, Inc.*, PCB 03-106 (Feb. 20, 2003); citing *People v. Fosnock*, PCB 41-1, slip. op. at 19 (Sept. 15, 1994). A proposition is proved by a preponderance of the evidence when it is probably more true than not. *Village of South Elgin*, slip. op. at 19; citing *Nelson v. Kane County Forest Preserve*, PCB 94-244 (July 18, 1996).

ISSUES PRESENTED

The issues before the Board are whether Lowell Null:

- 1) violates Section 21(a) of the Act, 415 ILCS 5/21(a), by consolidating waste materials at a site which is neither permitted by the Illinois EPA as a sanitary landfill, nor meets the requirements of the Act and of the regulations and standards promulgated thereunder;
- 2) violates Section 21(e) of the Act, 415 ILCS 5/21(e), by disposing, storing, or abandoning waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder;
- 3) violated Section 9(a) of the Act, 415 ILCS 5/9(a), by causing or allowing the emission of contaminants into the environment so as to cause or tend to cause air pollution;

4) violated Section 9(c) of the Act, 415 ILCS 5/9(c), by causing or allowing the open burning of refuse at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder; and,

5) violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3), by causing or allowing the open dumping of waste which resulted in open burning.

RELIEF SOUGHT

Complainant seeks a finding of liability by Lowell Null on Count I and II of the Complaint, and assessment of a civil penalty in the amount of \$8,000.00. Complainant also requests that the Board order the Defendant to cease and desist from violating the Environmental Protection Act and associated regulations and grant such other further relief as the Board deems appropriate, including, but not limited to, proper disposal of the waste that remains on the site.

FACTS

MAB Pallets, LLC ("MAB") was registered as a domestic limited liability company in Illinois on May 14, 2007, but was involuntarily dissolved on November 14, 2008. Compl. ¶ 3; Exh. 1 ¶ 1. The single LLC member of MAB, Lowell Null, continued to operate out of the former MAB office, which is located at 1100 South Second Avenue, Hoopston, Vermilion County, Illinois ("site"). Compl. ¶¶ 3-4; Exh. 1 ¶¶ 1-3. (Illinois EPA inspection reports indicated Lowell Null facilitated the operation of other pallet refurbishing businesses for several years even prior to the MAB operation. Exh. 1-C, narrative pg. 2.)

The site is not permitted by the Illinois EPA as a sanitary landfill. Compl. Count I ¶ 5; Exh. 1 ¶ 4. Nevertheless, on multiple occasions, Illinois EPA inspections revealed that Mr. Null had anywhere from 1,000 cubic yards to 8,000 cubic yards of broken and shredded pallets and other refuse at the site. Compl. Count I ¶¶ 6-7, 9-10, 12-13, and 14-15; Exh. 1 ¶¶ 5-6, 8-9, 15-17, 19-20, 25-26, and 27-28. On May 29, 2007, the Illinois EPA conducted an inspection in response to a complaint that children were playing at the site. Exh. 1-A, narrative pg. 1. On May 29, 2007, there were at least 1,000 cubic yards of broken and shredded pallets, drums, and

other refuse on the site. Compl. Count I ¶ 7; Exh. 1 ¶ 6; see Exh. 1-A, photos 3-11. On January 22, 2008, Lowell Null had an estimated 8,000 cubic yards of broken and shredded pallets and other refuse on the site. Compl. Count I ¶ 10; Exh. 1 ¶ 9; see Exh. 1-C, photos 2-7 and 11-15. Over a year later, on May 19, 2009, the estimated 8,000 cubic yards of piled refuse remained on site and included broken and shredded pallets, drums, shingles, and other refuse. Compl. Count I ¶ 13; Exh. 1 ¶ 16; see Exh. 1-D, photos 1-8. A year later, on May 18, 2010, there was still approximately 8,000 cubic yards of the same refuse at the site. Compl. Count I ¶ 15; Exh. 1 ¶ 20; see Exh. 1-E, photos 1-4. On July 20, 2010, wood chips, pallets, metals, and packing and crating materials were at the site. A broken boat was also at the site. Exh. 1. ¶ 26; see Exh. 1-F, photos 1-5. On March 23, 2011, several piles of wood chips and shredded wood remained on the site and some of the shredded wood piles also contained foam and plastic packing material. A pile of steel drums also remained on site. Exh. 1 ¶ 28; see Exh. 1-G, photos 1-5.

Business records show few attempts at selling pallets as chipped wood and mulch. Compl. Count I ¶¶ 8 and 11; Exh. 1 ¶¶ 7 and 12. The Respondent made no sales of chipped, shredded, or broken pallets or any other form of recycled pallets during the periods of October 2007 through February 2008, May 2008 through December 2008, and the years 2009 and 2010. Exh. 1 ¶¶ 11, 14, 18, and 23. Moreover, the Respondent did not sell refurbished pallets during 2007, 2008, 2009 or 2010. Exh. 1 ¶¶ 10, 13, 17, and 23. In fact, the Respondent has had no plan in place for the use or sale of wood chips and shredded wood remaining at the site since at least the time MAB Pallets dissolved on November 14, 2008. Exh. 1 ¶ 29.

Additionally, Mr. Null burned broken pallets and waste at the site on or before May 18, 2010, as evidenced by two large burn areas that were present on the site on that date. One of the burn areas contained a smoldering pile of debris. Compl. Count II ¶ 26-27; Exh. 1, ¶¶ 21 and 22; see Exh. 1-E, narrative pg. 2 and photos 7-8. Mr. Null claimed to have a permit to openly burn the waste. Compl., Count II ¶ 26.

APPLICABLE STATUTES AND REGULATIONS

Illinois Statutes

Section 21(a) of the Act, 415 ILCS 5/21(a) (2010)

No person shall:

* * *

- (a) Cause or allow the open dumping of any waste.

Section 21(e) of the Act, 415 ILCS 5/21(e) (2010)

No person shall:

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

Section 9(a) of the Act, 415 ILCS 5/9(a) (2010)

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

Section 9(c) of the Act, 415 ILCS 5/9(c) (2010)

- (c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act; except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2010)

No person shall:

* * *

- (p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

* * *

- (3) open burning

* * *

LEGAL ARGUMENT

In adopting Title V of the Illinois Environmental Protection Act ("the Act"), the Legislature declared that "inefficient and improper methods of refuse disposal result in scenic blight, cause serious hazards to public health and safety, create public nuisances, divert land from more productive uses, depress the value of nearby property, offend the senses, and otherwise interfere with community life and development." 415 ILCS 5/20. The purpose of Section 21 is to prevent the hazards to the public health and safety caused by the improper disposal and storage of waste. When the Respondent chose to improperly dispose of refuse at the site, including broken and shredded pallets, drums, shingles, and other refuse, he contributed to the very problems the Legislature was specifically attempting to address in its passage of Title V.

The evidence present in the Record, including Respondent's admissions, show that it is more likely than not that Respondent open dumped refuse, improperly disposed of refuse, and as a result of open dumping also openly burned refuse causing emission of contaminants into the environment. As no genuine issue of material fact exists, the People's request for relief in this matter should be granted.

I. The Respondent Open Dumped and Improperly Disposed of Refuse.

In order to prevail on Count I as to violations of Sections 21(a) and (e) of the Act, 415 ILCS 5/21(a) and (e) (2010), the People must prove that it is more likely than not that the material on the site was refuse or waste, that the Respondent caused or allowed open dumping, and that the waste was improperly disposed of at the site.

A. The shredded pallets and other materials identified at the site are "waste."

"Refuse" is waste, 415 ILCS 5/3.385, and "waste" means any garbage...or other discarded material, 415 ILCS 5/5.535. In addition, "While the legislature has not defined 'discarded materials,' the legislature has mentioned what it is not: 'materials that would otherwise be disposed of or discarded [which] are * * * returned to the economic mainstream in the form of raw materials and products.' Thus, materials are 'discarded' unless they are returned

to the economic mainstream." *Alternate Fuels, Inc. v. Illinois Environmental Protection Agency*, 215 Ill.2d 219 at 240, 830 N.E.2d 444 at 456, quoting 415 ILCS 5/3.380 (2004). Applying this definition, the Second District later found that uprooted trees which "did not change position between...inspections" and were "just laid there to rot," were discarded materials and, therefore, waste. *Northern Illinois Service Company v. Environmental Protection Agency and Pollution Control Board*, 381 Ill.App.3d 171 at 176, 885 N.E.2d 447 at 452 (2nd Dist. 2008). The court rejected the notion that the potential market value of the trees as mulch would somehow exclude the trees from the definition, stating "whether an item has value has no bearing on whether it is discarded." 381 Ill. App. 3d at 177; 885 N.E.2d at 452.

The broken pallets are refuse because they are discarded and have not been returned to the economic mainstream. They are essentially a wastestream from Respondent's now defunct pallet refurbishing business. While certain of Respondent's broken pallets may have or have had a market value as reflected by a few very small sales of chipped wood, Respondent has simply not been diligent in returning these materials into the economic mainstream, instead allowing the pallets to lay there to rot. And, the Respondent has no plans to use the materials. Rather, for at least the last three to four years, the various pallets, broken and otherwise, have remained in substantially the same condition between the several inspections conducted by the Illinois EPA. In addition, the other materials found at the site, including the drums and shingles, remained at the site on multiple inspection dates in disuse as discarded materials or waste.

B. The Respondent caused or allowed the waste to be open dumped and disposed of at the site.

"Open dumping means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirement of a sanitary landfill." 415 ILCS 5/3.305. A sanitary landfill is a "facility permitted by the Agency for the disposal of waste on land...." 415 ILCS 5/3.445. Furthermore, a "waste disposal site" is a site on which solid waste is disposed, 415 ILCS 3.540, and "disposal" means the "dumping, ... or placing of any waste...into or on any

land...so that such waste...or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters." 415 ILCS 5/3.185.

The Respondent has consolidated broken and shredded pallets into piles directly on the land without any cover and thus the waste is disposed of and has entered the environment. The Respondent has disposed of other refuse at the site in addition to the broken pallets, including drums and shingles. These additional materials were also piled directly on the land as discarded materials. Since the site is not permitted by the Agency as a sanitary landfill, it is a disposal site that does not fulfill the requirements of a sanitary landfill.

In addition, the Respondent has caused or allowed these conditions at the site. An alleged polluter must "at least [be] in control of the premises on which the pollution occurred..." or have "exercised sufficient control over the source of the pollution in such a way as to have caused...or allowed the pollution." *Phillips Petroleum Company v. Illinois EPA*, 72 Ill.App.3d 217, 220-221, 390 N.E.2d 620, 623 (2nd Dist. 1979). While not the owner of the property, the Respondent nevertheless operated a pallet refurbishing business, MAB Pallets, at the site from at least May 14, 2007 until November 14, 2008. The Respondent continued to operate out of the former MAB Pallets location until at least November 2010. As an operator dealing in pallets, the Respondent had control over the site and the source of the pollution and thus caused, or at the very least allowed, the open dumping and disposal of the waste at the site.

II. The Respondent's Open Dumping Resulted in Open Burning and Emission of Contaminants Into the Environment

In order to prevail on Count II as to violations of Sections 9(a), 9(c), and 21(p)(3) of the Act, 415 ILCS 5/9(a),9(c), and 21(p)(3) (2010), the People must prove that it is more likely than not that the Respondent open dumped in such a manner so as to cause open burning and, in doing so, caused, threatened, or allowed the discharge or emissions of contaminants into the environment so as to cause or tend to cause air pollution.

A. Open dumping of waste resulted in open burning.

In order to determine whether open dumping resulted in open burning, the People must first show that open dumping occurred and that open burning occurred at an open dumping site. As already demonstrated above, open dumping of broken pallets and other refuse occurred at the site. Thus, the remaining element to consider is whether open burning occurred at the site.

"Open burning is the combustion of any matter in the open or in an open dump." 415 ILCS 5/3.300. Two burn areas were located in open areas at the site, one of which was still smoldering at the time of Illinois EPA's inspection on May 18, 2010. These burn areas and the smoldering debris prove that open dumping resulted in open burning at the site. In addition, the Respondent claimed to have permission to burn further evidencing that he caused or allowed the open burning to occur.

B. Respondent cause, threatened, or allowed the discharge or emission of contaminants so as to cause or tend to cause air pollution.

By accumulating broken pieces of pallets and causing or allowing the pallets to be openly burned on the site, the Respondent also caused or allowed emissions of contaminants. A "contaminant is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source." 415 ILCS 5/3.165 (2010). Furthermore, burning of wood and debris give rise to a Section 9(a) violation. *People v. Harvey Cash d/b/a Cash Oil Company*, PCB 96-75 (January 8, 1998).

On May 18, 2010, a debris pile was actually smoldering, indicating the visible release of gaseous matter or energy into the environment which would tend to cause air pollution. As cited in the facts, the Respondent claimed to have a permit to burn materials at the site showing he caused or allowed, and at the very least threatened, the discharge of contaminants that would tend to cause air pollution.

III. Civil Penalty Request

A. Impact on the public resulting from alleged non-compliance.

The legislature directs the Board to consider the factors provided in Section 33(c) when making penalty determinations in order to protect against the imposition of arbitrary civil penalties. *People ex. rel. Ryan ex. Rel Douglas v. IBP, Inc.*, 309 Ill. App. 3d 631, 639, 723 N.E.2d 370, 376 (3d Dist. 1999), *citing City of Waukegan v. Pollution Control Bd.*, 57 Ill. 2d 170, 182-183, 311 N.E. 2d 146, 152 (1974). Section 33(c) provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant states the following:

1. The threat of injury to the public is moderate. The initial inspection of this site was due to a complaint that children were playing at the site, indicating that a potential physical danger is posed to local children.
2. There is no social or economic value of the broken and shredded pallets and other waste remaining at this site.
3. The disposal of the broken and shredded pallets, drums, and other waste material at the site, and the open burning of refuse was not suitable for the property.

4. Proper disposal and/or recycling of the waste is both economically and technically feasible.

5. The Respondent has not properly disposed of the waste materials.

B. Consideration of Section 42(h) factors.

To impose a civil penalty, the Board must consider the factors contained within Section 42(h) of the Act, 415 ILCS 5/42(h) (2010). Those factors are:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of the Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is no otherwise legally required to perform.

In response to these factors, the Complainant states as follows:

1. The Respondent violated the Act by disposing of broken and shredded pallets and other waste materials at the site on or before May 29, 2007, much of which has remained on site since that time. These actions resulted in the violations continuing for at least three years.

2. Respondent has shown a lack of diligence in attempting to come back into compliance with the Act and Board regulations. While the Respondent has shown that he has on occasion reduced some of the broken pallets to wood chips and sold them as material, he has failed to continue to do so, leaving large volumes of waste material disposed of at the site.

3. The Respondent has incurred a nominal economic benefit by avoiding the costs of proper disposal of waste materials from his pallet business and allowing them to accumulate over time.

4. The Complainant has determined, based upon the specific facts of this matter, that a penalty of Eight Thousand Dollars (\$8,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, the Respondent has no previously adjudicated violations of the Act.

6. The Respondent did not self-report the alleged violations.

7. The Respondent has not agreed to perform a supplemental environmental project.

CONCLUSION

The Board should grant the People summary judgment determining that the Respondent caused or allowed open dumping and disposal of waste at a site that does not meet the requirements of the Act or regulations. The Board should also grant the People summary judgment determining that Respondent's open dumping resulted in open burning and emission of contaminants into the environment so as to tend to cause air pollution. No Answer or responsive pleadings to the Complaint or Request For Admission of Fact of Genuineness of Documents have been filed and, therefore, no affirmative defenses have been plead and all statements of fact and genuineness of documents should be taken as admitted pursuant to Sections 103.204(d) and 101.618(f) of the Board's Procedural Rules, 35 Ill. Adm. Code 103.204(d) and 101.618(f). Accordingly, there is no genuine issue as to any material fact as to

the prima facie proof of the alleged violations and Complainant is entitled to judgment as a matter of law as to Count I and Count II of the Complaint.

WHEREFORE, Complainant, People of the State of Illinois, respectfully request that the Board enter a final order:

A) Granting Complainant's motion for summary judgment on Count I and Count II of the Complaint;

B) Finding violations of Sections 21(a), 21(e), 9(a), 9(c), and 21(p)(3) of the Act, 415 ILCS 5/21(a), 21(e), 9(a), 9(c), and 21(p)(3) (2010);

C) Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D) Assessing against the Respondent a civil penalty in the amount of \$8,000 pursuant to Section 42(h) of the Act; and

E) Granting such other relief as the Board deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: *Rachel R Medina*

RACHEL R. MEDINA
Environmental Bureau
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Dated: 8-18-11

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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v.)	PCB NO. 11-26
)	(Enforcement - Land)
LOWELL NULL, d/b/a)	
MAB PALLETS)	
)	
Respondent.)	

REQUEST FOR ADMISSION OF FACT AND GENUINENESS OF DOCUMENTS

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, pursuant to Section 101.618 of the Board's Procedural Rules, 35 Ill. Adm. Code 101.168 (2008), hereby serves upon the Respondent, LOWELL NULL, d/b/a MAB PALLETS ("Lowell Null"), this Request for Admission of Fact and Genuineness of Documents. Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney.

REQUEST TO ADMIT FACTS

1. On May 14, 2007, MAB Pallets, LLC ("MAB Pallets") was registered as a domestic limited liability company in Illinois and was involuntarily dissolved on November 14, 2008. MAB Pallets had one LLC member named Lowell Null.
2. The principal office address for MAB Pallets was 1100 South Second Avenue, Hoopston, Vermillion County, Illinois ("site").
3. Since MAB Pallets dissolved, Lowell Null continued to operate out of the former MAB Pallets site until at least November 2010.
4. The site is not permitted by the Illinois EPA as a sanitary landfill.



Electronic Filing - Received, Clerk's Office, August 18, 2011

5. On May 29, 2007, the Illinois EPA conducted an inspection of the site in order to investigate a complaint.
6. On May 29, 2007, there were at least 1,000 cubic yards of broken and shredded pallets, drums, and other refuse on the site. See Exhibit A.
7. Business records indicate that Lowell Null sold chipped wood and mulch at the site in September of 2007. See Exhibit B.
8. On January 22, 2008, the Illinois EPA conducted an inspection of the site.
9. On January 22, 2008, there were approximately 8,000 cubic yards of broken and shredded pallets and other refuse on the site. On that date, a wood chipper was on site and some pallets had been chipped since the May 29, 2007 inspection. See Exhibit C.
10. Lowell Null did not sell refurbished pallets during the year 2007.
11. Lowell Null did not sell chipped, shredded, or broken pallets or any other form of recycled pallets from October 2007 to February 2008.
12. Business records indicate that Lowell Null sold chipped wood and mulch at the site in March and April of 2008. See Exhibit B.
13. Lowell Null did not sell refurbished pallets during the year 2008.
14. Lowell Null did not sell chipped, shredded, or broken pallets or any other form of recycled pallets from May 2008 to December 2008.
15. On May 19, 2009, the Illinois EPA conducted an inspection of the site.
16. On May 19, 2009, there remained on the site approximately 8,000 cubic yards of broken and shredded pallets, drums, shingles, and other refuse. The wood chipper was no longer present at the site. See Exhibit D.
17. Lowell Null did not sell refurbished pallets during the year 2009.
18. Lowell Null did not sell chipped, shredded, or broken pallets or any other form of recycled pallets during the year 2009.
19. On May 18, 2010, the Illinois EPA conducted an inspection of the site.

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20. On May 18, 2010, a truck loading metals was present. However, there remained on the site approximately 8,000 cubic yards of refuse, including broken and shredded pallets, drums, shingles, and other refuse. See Exhibit E.
21. On May 18, 2010, two large burn areas were present on the site, one of which contained a smoldering pile of debris. See Exhibit E.
22. On or before May 18, 2010, Lowell Null openly burned waste on the site.
23. Lowell Null did not sell refurbished pallets during the year 2010.
24. Lowell Null did not sell chipped, shredded, or broken pallets or any other form of recycled pallets during the year 2010.
25. On July 20, 2010, the Illinois EPA conducted an inspection of the site.
26. On July 20, 2010, wood chips, pallets, metals, and packing and crating materials were on the site. A broken boat was also on the site. See Exhibit F.
27. On March 23, 2011, the Illinois EPA conducted an inspection of the site.
28. On March 23, 2011, several piles of wood chips and shredded wood remained on the site. Some of the shredded wood piles also contained foam and plastic packing material. A pile of steel drums also remained on site. The volume of wood wastes had somewhat diminished since the last inspection. See Exhibit G.
29. Since at least the date MAB Pallets dissolved, November 14, 2008, Lowell Null has had no plan to use or sell the wood chips and shredded wood remaining at the site.

REQUEST TO ADMIT GENUINENESS OF DOCUMENTS

1. Exhibit A is a genuine copy of the Illinois EPA inspection report, with attachments, of May 29, 2007.
2. Exhibit B is a genuine copy of five (5) receipts documenting the sale of chipped wood or mulch by Lowell Null on September 7, 2007, September 9, 2007, March 17, 2008, March 19, 2008, and April 1, 2008.

3. Exhibit C is a genuine copy of the Illinois EPA inspection report, with attachments, of January 22, 2008.
4. Exhibit D is a genuine copy of the Illinois EPA inspection report, with attachments, of May 19, 2009.
5. Exhibit E is a genuine copy of the Illinois EPA inspection report, with attachments, of May 18, 2010.
6. Exhibit F is a genuine copy of the Illinois EPA inspection report, with attachments, of July 20, 2010.
7. Exhibit G is a genuine copy of the Illinois EPA inspection report, with attachments, of March 23, 2011.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:



Rachel R. Medina
Environmental Bureau
Assistant Attorney General

ARDC #6297171
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 6/17/11

Open Dump Inspection Checklist

County: Vermilion LPC#: 1830455031 Region: 4 - Champaign

Location/Site Name: Hoopeston/MAB Pallets, Inc.

Date: 05/29/2007 Time: From 09:50 am To 11:18 am Previous Inspection Date: _____

Inspector(s): Kenneth Keigley Weather: sunny - 78 degrees

No. of Photos Taken: # 12 Est. Amt. of Waste: 1000 yds³ Samples Taken: Yes # _____ No

Interviewed: Mr. Lowell Null, Owner Complaint #: C05-181-CH

Latitude: 40.45818 Longitude: -87.67244 Collection Point Description: Center of Site - error 7.5 feet

(Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS - Garmin GpsMap 76S

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

Lowell Null, Owner
 1100 South Second Ave
 Hoopeston, Illinois 60942
 Phone Number 217/283-9606

Mr. Derek Girton, Registered Agent
 11 E North St.
 Danville, IL 61832

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input 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 type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input 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 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"/>



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LPC # 1830455031

Inspection Date: 05/29/2007

	(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 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 TRANSPORTED WITHOUT A WASTE HAULING PERMIT, OR A 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"/>

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
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: May 29, 2007

Complaint Number C05-181-CH

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

General Comments:

On May 29, 2007 at 09:50 A.M., I conducted an inspection at the MAB Pallet, Inc. facility, located at 100 South Second Avenue, Hoopeston, Illinois 60942.

This inspection was conducted in response to a citizen's complaint that two unnamed neighbor children known to have been playing at this site contracted a rare blood disease for which they were being treated.

The purpose of this inspection was to determine regulatory status and evaluate compliance with the Illinois Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The inspection consisted of walking around the site, taking pictures, and talking to Mr. Lowell Null, owner. The weather was partly cloudy, the temperature 70 degrees.

Background:

This facility operated for years as a vegetable product canning facility. In 1991 the facility was purchased by M & N Pallet Company, Inc., which was listed as involuntarily dissolved in December of 2006. The facility corporate name changed to MAB Pallet Company, Inc in December of 2006 in the Illinois Secretary of State's corporate status data base.

Inspection:

When I arrived at the facility I spoke to Mr. Lowell, the Owner and explained that I was there investigating a complaint that children were playing at the site and had subsequently become ill, and had died, causing the complainant to be concerned that toxic materials were present at the industrial site. I have since become aware that the complaint had stated in the complaint that the children had become ill and had not said they had died.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: May 29, 2007

Complaint Number C05-181-CH

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

Mr. Null said that in the past the facility had been an operating vegetable product canning factory and as such probably would not have had occasion to store or generate any toxic chemicals at the site. I asked what other activities had been conducted there and he said he knew that the site had been a migrant worker camp for Illinois Canning Company, was then purchased by Joan of Arc Canning

He had purchased the site in 1991 and operated the site as a pallet refurbishing company exclusively for pallets from Silgan Can Company. He said that a portion of the site had been used as a paint ball facility for the public, operated by Mr. Tom Gustive, who he believes no longer lives in the area. Some of the facility had remained unused, and some housed the pallet refurbishing operation.

(NOTE: for a detailed explanation of the probable use of the site and conclusions proposed subsequent to an evaluation, please refer to the environmental assessment accomplished by Dames and Moore, dated October 4, 1991, and furnished by Mr. Null. A copy of which is attached to this report.) No environmental concern was named in the report.

I told him that I would like to walk around the facility and based on my observations take three or possibly four soil samples. He said “do what ever you want to do”, giving permission to walk the site and to take samples. I also said, based on the history of the site I did not expect to find toxic materials but in light of the seriousness of the complaint it must be investigated. I also indicated that I had noticed piles of pallets scattered about the site that did not appear to be serviceable. He indicated that they were broken pallets, which he said was in the process of being shredded to be used for mulch and pointed out a grinding machine at the site. When I asked if he had records indicating a customer for the material he said he had one customer who had purchased some and had met with some potential customers in Missouri, who had indicated that they might be interested in all the shredded pallets. He also said none of the pallets were treated or oil contaminated since they were used as “food grade” storage pallets.

He did say that a building on the northwest corner of the facility had been used to store seed corn.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: May 29, 2007

Complaint Number C05-181-CH

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

I said if he could legitimately recycle the pallets, that would be permissible, but for the time being, they were considered open dumped because of the lack of a destination, age and condition of the pallets, and length of time they had been sitting at the site. I said that a letter would be forthcoming from the Agency requiring the removal of the unusable pallets.

While we were in discussion about the site, he called Mr. Mark Drollinger, the local Police Chief who said he was unaware that anyone had become ill that was living in the area. I told Mr. Drollinger that while I did not believe I would find anything alarming at the site that because of the seriousness of the complaint it must be investigated. I also told him I would keep him updated concerning any findings.

I then walked the site.

We walked through the main production portion of the facility where Mr. Null pointed out a stack of pallets that were waiting refurbishing (see photo #1). We went into another room where bundles of paper “pallet liners” had been bundled and stored and refurbished pallets were stored awaiting shipment back to Silgan Can Company.

I saw a pile of apparent processed pallets that appeared ready for use as mulch. Walking around the rest of the facility I saw that broken pallets were stacked on a large portion of the property east and south of the production building (see photos #4, #5, #6, #7, #8, and #9. Many were very weathered appearing. While very difficult to estimate the volume of broken pallets on the site I set an approximate a volume of 1000 cubic yards of broken pallets at the site.

I noticed a large pile of metal drums stacked near the center of the property toward the south end (see photo #10). Mr. Null said the drums were empty. In a May 31 telephone conversation, Mr. Null said that the drums had contained olive oil and were from Conagra in Rossville. He said that they had been intended to serve as burn barrels prior to the Village banning the use of burn barrels. I said the drums could be recycled as scrap metal so if they were empty I was not considering them open dumped at this time. In a June 5, 2007 sampling visit at the site I noted that the drums were indeed empty.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Floopeston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: May 29, 2007

Complaint Number C05-181-CH

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

I walked back to the pile of shredded pallets located back near the north end of the property (see photo #11).

I returned to the facility office where I talked to Mr. Null asking again for permission to sample. He

I said a letter would be forthcoming concerning disposition of the broken pallets.

I left the site at 11:18 am.

I returned to the site on 06/5/07 and collected four soil samples. That visit is documented in a separate report.

Apparent violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

#1 Pursuant to Section 21(a) of the Act, no one shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **waste was open dumped on the site.**

#2 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **wastes were disposed of at this site which does not meet the requirements of the Act and Regulations thereunder.**

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: May 29, 2007

Complaint Number C05-181-CH

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

#3 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

Illinois Environmental Protection Agency

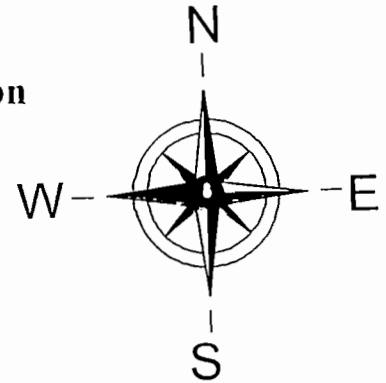
Bureau of Land ♦ Field Operations Section ♦ Champaign Region

1830455031 – Vermilion County
Hoopston/MAB Pallets, Inc.

FOS

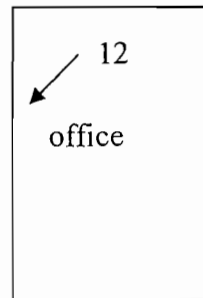
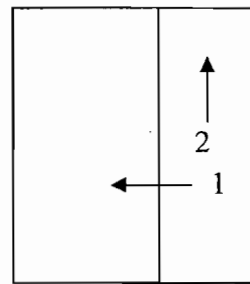
Inspector: Kenneth Keigley

Date: May 29, 2007



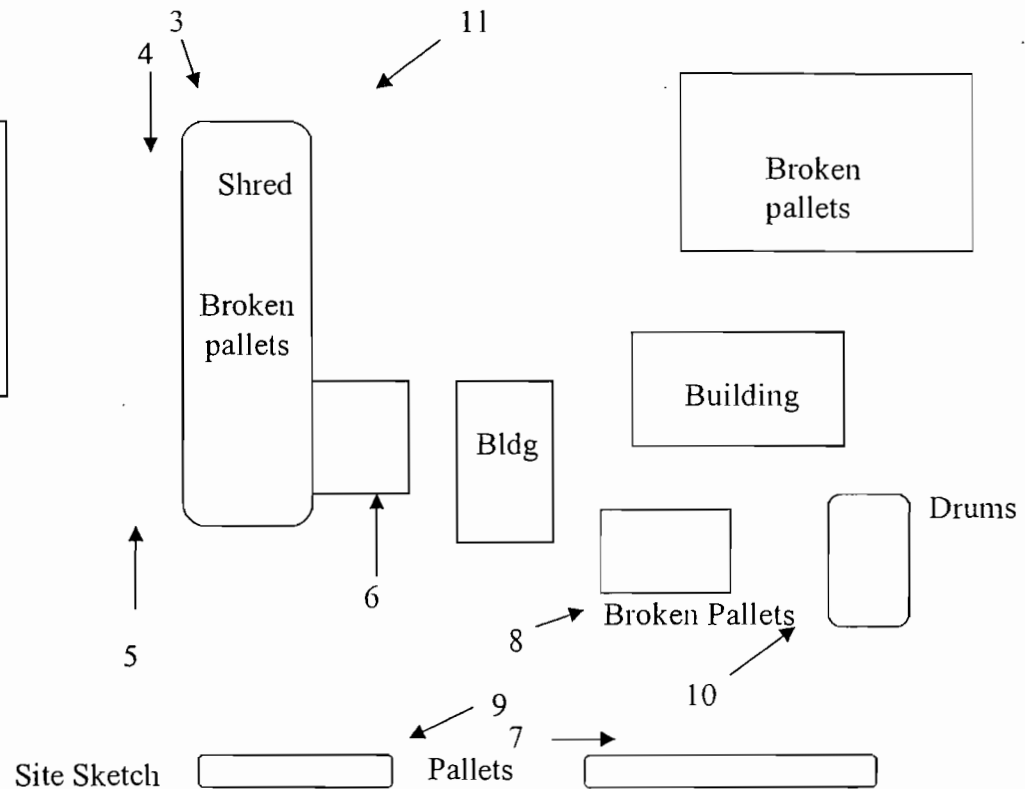
W. Orange Street

South Second Street



Not to Scale

Arrows indicate location
and direction of photos



Site Sketch



Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets, Inc.
FOS File

DATE: 05-29-2007
TIME: 09:51 AM
DIRECTION: West
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-001.jpg
COMMENTS: Pallets
awaiting refurbishing.



DATE: 05-29-2007
TIME: 09:52 AM
DIRECTION: North
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-002.jpg
COMMENTS: Pallet liners and
refurbished pallets.



Illinois Environmental
Protection Agency

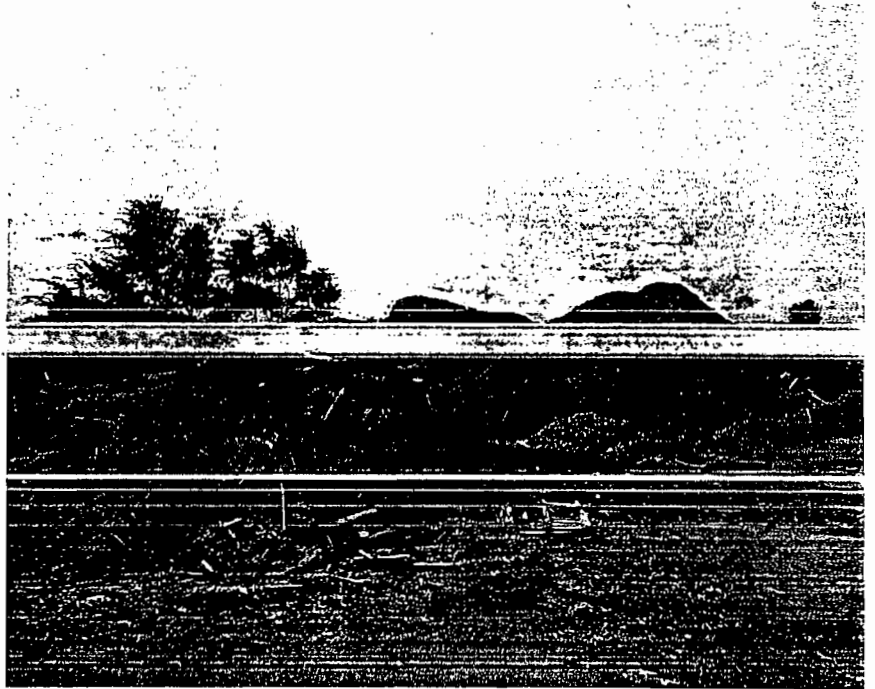
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets, Inc.
FOS File

DATE: 05-29-2007
TIME: 09:54 AM
DIRECTION: Southeast
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-003.jpg

COMMENTS: Pile of
chipped pallets.



DATE: 05-29-2007
TIME: 09:55 AM
DIRECTION: South
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-004.jpg
COMMENTS: Pile of un-
reparable pallets.



Illinois Environmental
Protection Agency
Bureau of Land

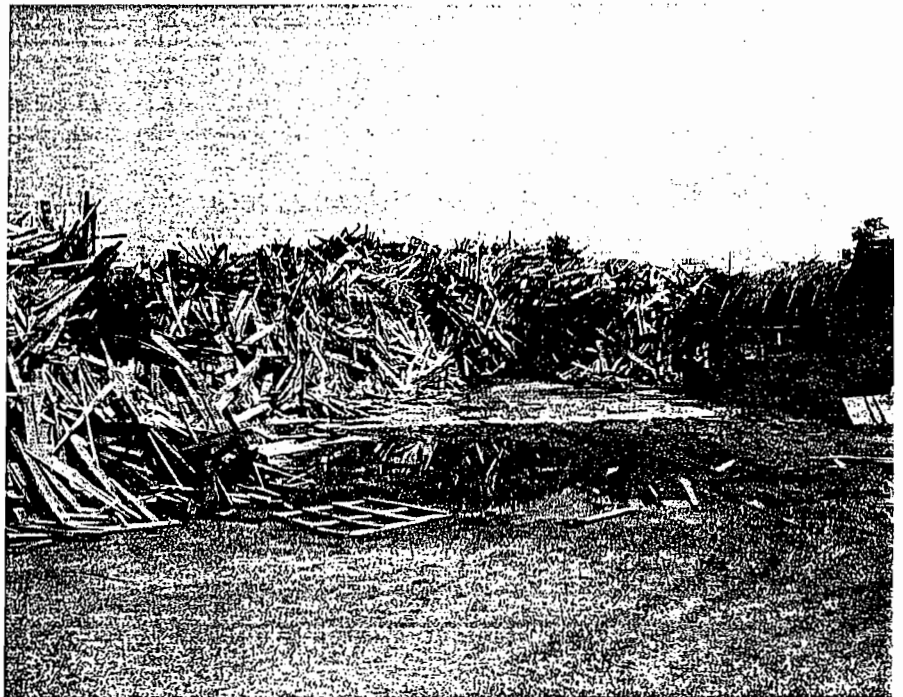
DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets, Inc.
FOS File

DATE: 05-29-2007
TIME: 09:56 AM
DIRECTION: North
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-005.jpg
COMMENTS: Pile of un-
repairable pallets.



DATE: 05-29-2007
TIME: 09:56 AM
DIRECTION: North
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-006.jpg
COMMENTS:

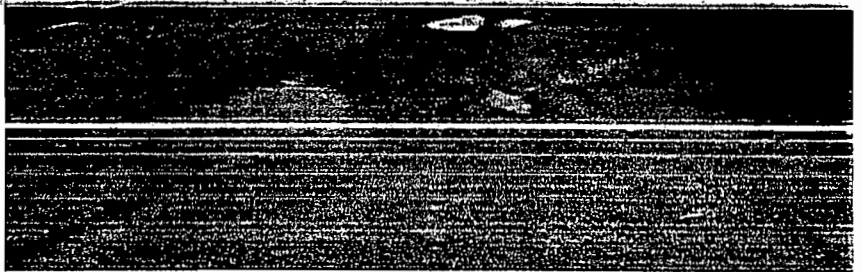
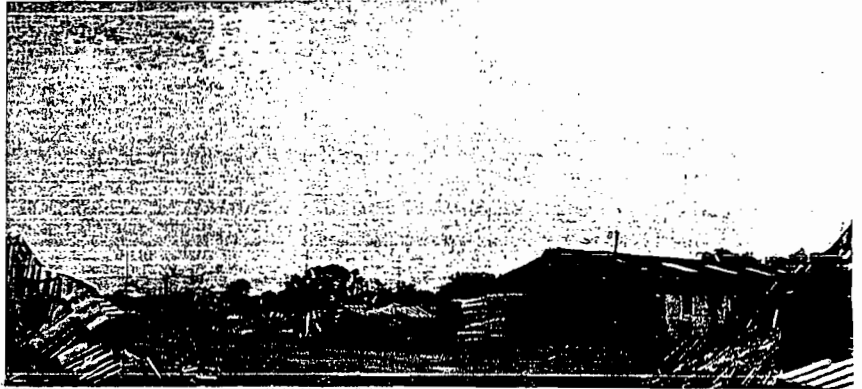


Illinois Environmental
Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets, Inc.
FOS File

DATE: 05-29-2007
TIME: 09:57 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-007.jpg
COMMENTS: Various piles
of un-repairable pallets



DATE: 05-29-2007
TIME: 09:57 AM
DIRECTION: Northeast
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-008.jpg
COMMENTS: Piles of un-
repairable pallets.



Illinois Environmental
Protection Agency
Bureau of Land

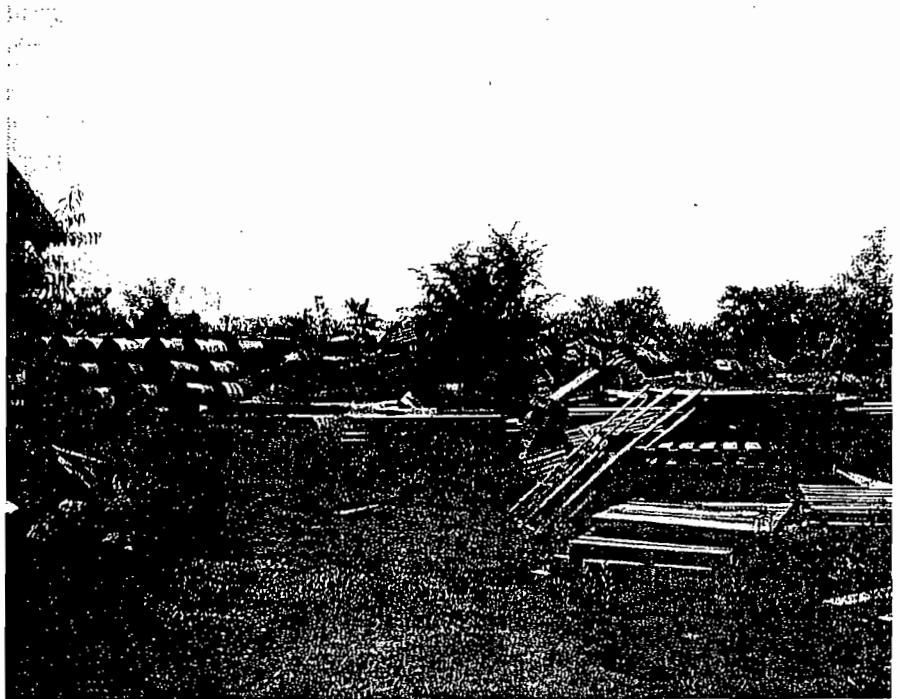
DIGITAL PHOTOGRAPHS

**LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets, Inc.
FOS File**

**DATE: 05-29-2007
TIME: 09:58 AM
DIRECTION: Southwest
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-009.jpg
COMMENTS:**



**DATE: 05-29-2007
TIME: 09:58 AM
DIRECTION: Northeast
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-010.jpg
COMMENTS: Pile of drums
and more piles of unrepairable
pallets.**

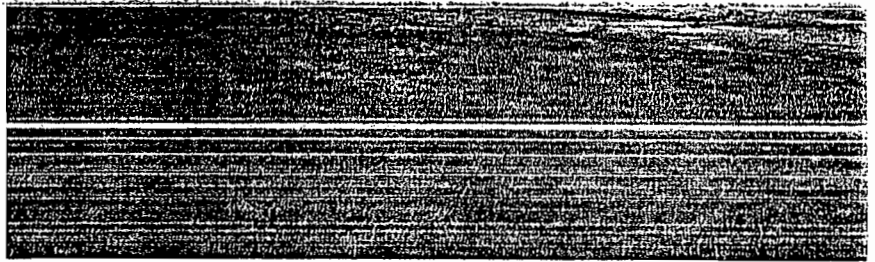


**Illinois Environmental
Protection Agency
Bureau of Land**

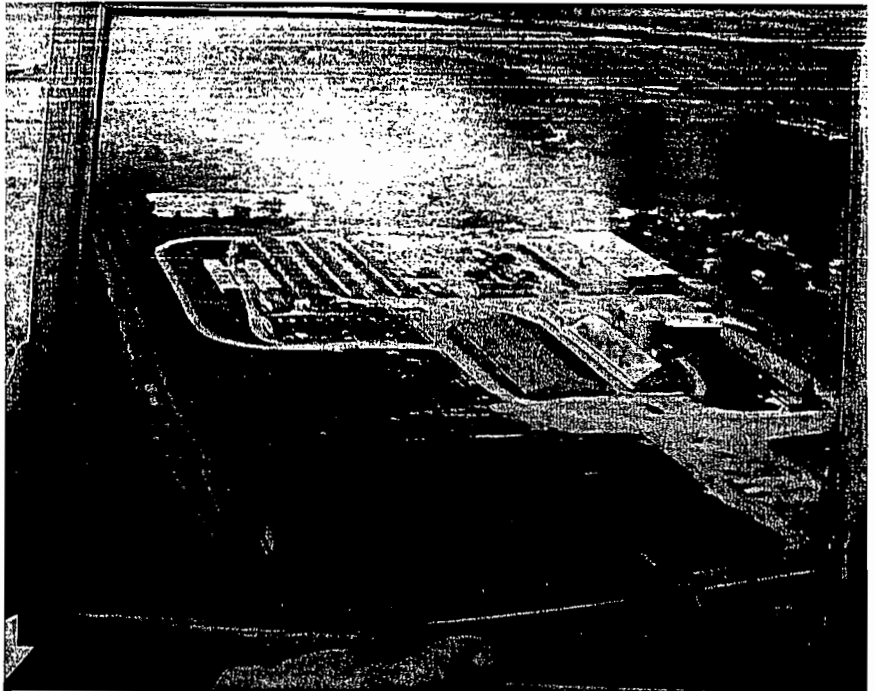
DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets, Inc.
FOS File

DATE: 05-29-2007
TIME: 10:04 AM
DIRECTION: Southwest
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-011.jpg
COMMENTS: Pile of
freshly chipped pallets and pile
of weathered chipped pallets.



DATE: 05-29-2007
TIME: 10:15 AM
DIRECTION: Southwest
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031~05292007-012.jpg
COMMENTS: Photo of facility
when it was operating as a
canning facility.



Electronic Filing - Received, Clerk's Office, August 18, 2011

Date 8/18/11

M _____

Address _____

Reg. No.	Clerk	Account Forward		
1				
2				
3	<i>Mark</i>			
4	<i>Mark</i>			
5				
6				
7	<i>Mark</i>			
8	<i>Mark</i>			
9	<i>Mark</i>			
10				
11				
12				
13				
14				
15				

Your Account Stated to Date—If Error Is Found Return at Once
TOPS 46202

217 530-2813
CHHS
Traders Wilson
2

Date 8/17/11

M _____

Address _____

Reg. No.	Clerk	Account Forward		
1				
2				
3	<i>Mark</i>			
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

Your Account Stated to Date—If Error Is Found Return at Once
TOPS 46202

1

Date 19 May 08

M *Gray Trucking*

Address *W. Main St 22*

Reg. No.	Clerk	Account Forward		
1				
2	<i>Sami</i>			
3				
4	<i>Mark</i>			
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

Your Account Stated to Date—If Error Is Found Return at Once
TOPS 46202

140 22

5

Date 8-17-08

M *Janet*

Address _____

Reg. No.	Clerk	Account Forward		
1				
2	<i>Truck</i>			
3				
4	<i>Mark</i>			
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

Your Account Stated to Date—If Error Is Found Return at Once
TOPS 46202

4



Date Aug 18 2011

M Shayd Smith

Address Russville

Reg. No.	Clerk	Account Forward		
1				
2	<u>triple</u>			
3				
4	<u>Chips</u>		<u>50</u>	<u>20</u>
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15	<u>6</u>			

Your Account Stated to Date—If Error Is Found Return at Once
Tops 46202

Open Dump Inspection Checklist

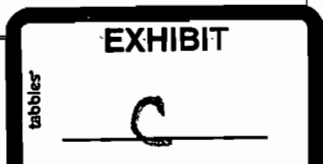
County: Vermilion LPC#: 1830455031 Region: 4 - Champaign
 Location/Site Name: Hoopeston/MAB Pallets, LLC.
 Date: 01/22/2008 Time: From 09:38 am To 10:10 am Previous Inspection Date: 06/05/2007
 Inspector(s): Kenneth Keigley Weather: sunny - 19 degrees
 No. of Photos Taken: # 15 Est. Amt. of Waste: 8000 yds³ Samples Taken: Yes # No
 Interviewed: Mr. Lowell Null, Owner Complaint #: C05-181-CH
 Latitude: 40.45818 Longitude: -87.67244 Collection Point Description: Center of Site - error 7.5 feet
 (Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS - Garmin GpsMap 76S

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

Lowell Null, Owner
 MAB Pallets LLC
 1100 South Second Ave
 Hoopeston, Illinois 60942
 Phone Number 217/283-9606

Mr. Derek Girton, Registered Agent
 11 E North St.
 Danville, IL 61832

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input 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 type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards, Adopted by the Board	<input 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 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"/>



Electronic Filing - Received, Clerk's Office, August 18, 2011

LPC # 1830455031

Inspection Date: 01/22/2008

	(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"/>
		ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A	<input type="checkbox"/>
13.	809.302(a)	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"/>

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
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: January 22, 2008

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

General Comments:

On January 22, 2008 at 09:38 A.M., I conducted an inspection at the MAB Pallet, LLC. facility, located at 1100 South Second Avenue, Hoopeston, Illinois 60942.

This inspection was conducted as a follow up to an inspection conducted on May 29, 2007, which resulted in a Violation Notice dated June 27, 2007 being sent alleging open dumping of waste, specifically broken wooden pallets and chipped wooden pallets.

The purpose of this inspection was to determine regulatory status and evaluate compliance with the Illinois Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The inspection consisted of walking around the site, taking pictures, and talking to Mr. Lowell Null, owner. The weather was sunny, the temperature 19 degrees.

Background:

This facility operated for years as a vegetable product canning facility. In 1991 the facility was purchased by M & N Pallet Company, Inc., which was listed as involuntarily dissolved in December of 2006. The facility corporate name changed to MAB Pallet Company, LLC in December of 2006 in the Illinois Secretary of State's corporate status data base. The Registered Agent for MAB Pallet Company is Mr. Derek Girton, 11 E North Street, Danville, IL 61832.

Mr. Null purchased the site in 1991 and operated the site as a pallet refurbishing company, exclusively for pallets from Silgan Can Company. The waste observed on the site consists of un-repairable pallets and grindings from un-repairable pallets.

Inspection:

When I arrived at the site I went into the facility office and told Mr. Null I was there to re-inspect the site to investigate what progress had been made in removing the waste pallets on the site. He said he had been grinding the pallets and trying to find a market for them. He said he had sold some of the ground wood to Greg Construction Company, Gilman, Illinois and another person had purchased 10 – 12 truck loads to use as mulch around their trees.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: January 22, 2008

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

He did not have invoices or bills of lading to document these sales. He said he had been accumulating the broken pallets for approximately 10 years. He also said none of the pallets were made from treated wood. We briefly discussed possible uses for the pallets, the discussion ending with me telling Mr. Null that if a legitimate use was not found for the pallets they are considered waste and must be disposed at a permitted landfill. With his permission I then walked the site.

I first saw a pile (pile "A") of chipped wood from the pallets measuring approximately 125' x 30' x 8' (see photos #1 and #3). Just east of this pile I saw a pile (pile B) of broken wooden pallets measuring approximately 45' x 75' x 8' (see photos #2 and #4).

East of this pile I saw three small piles of chipped wood from pallets (see photo #5) located just east of the chipping machine (see photos #8, #9, and #10).

North and northeast of the chipping machine I saw pile "C" (see photos #6 and #7) consisting of broken pallets and measuring approximately 150' x 45' x 3'.

I walked south down the center of the property and on the east side, the southeast corner area of the property, measuring approximately 200' x 300' x 4' was covered by un-repairable pallets (pile "D") (see photos #11 – 15).

There were more pallets scattered around the site and in buildings, which for the time being, I assumed were awaiting refurbishing (no photo).

I went back to the facility office and briefly discussed possible disposal alternatives for the pallets and the results of the investigation with Mr. Null.

Apparent violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

#1 Pursuant to Section 21(a) of the Act, no one shall cause or allow the open dumping of any waste.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Kenneth Keigley

Inspection Date: January 22, 2008

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

A violation of Section 21(a) is alleged for the following reason: **waste was open dumped on the site.**

- #2 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was disposed of at this site which does not meet the requirements of the Act and Regulations thereunder.**

- #3 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

Illinois Environmental Protection Agency

Bureau of Land ♦ Field Operations Section ♦ Champaign Region

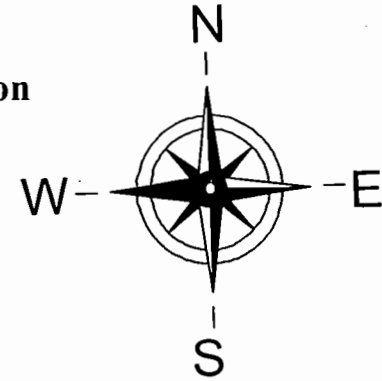
1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

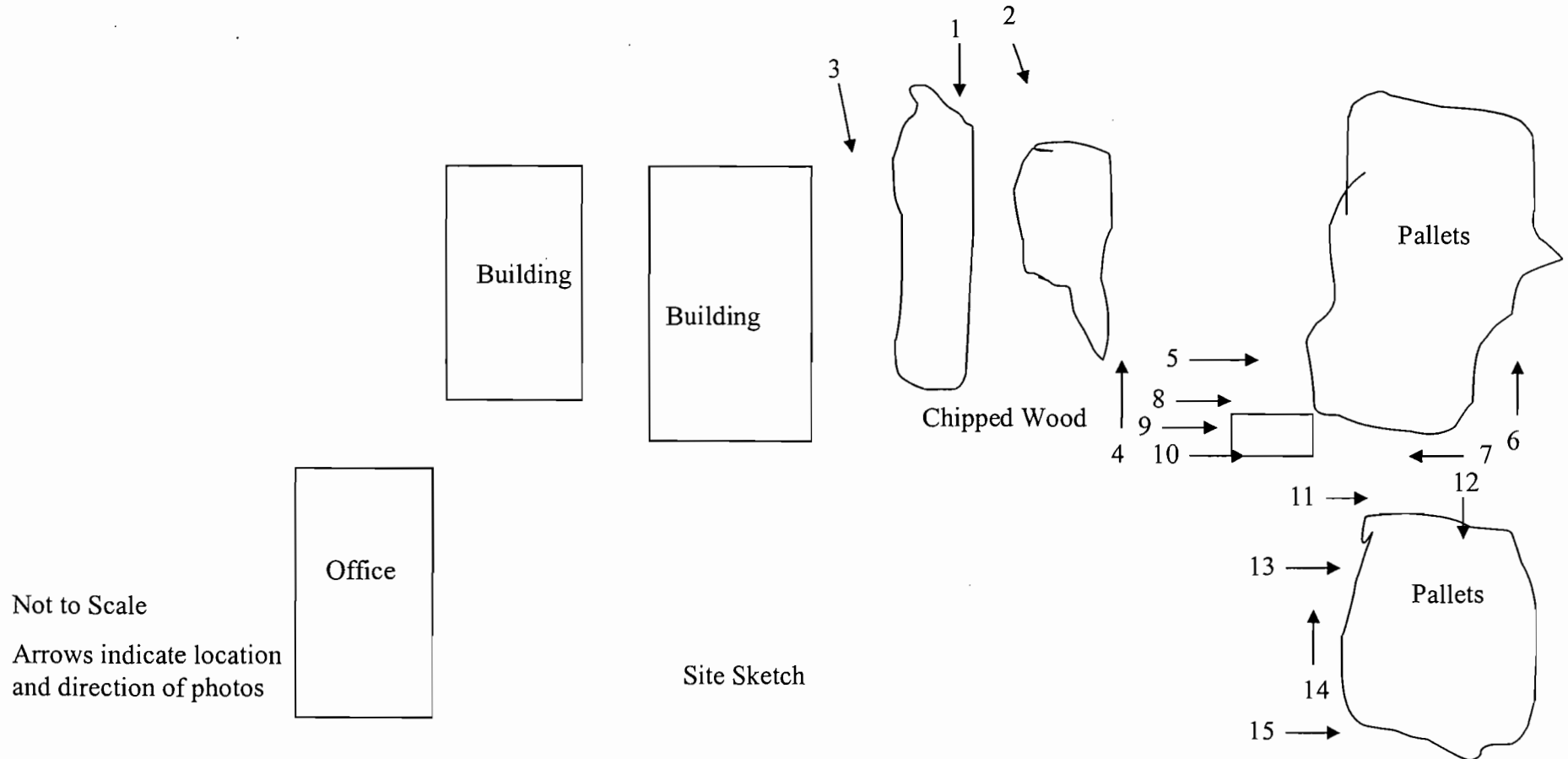
FOS

Inspector: Kenneth Keigley

Date: January 22, 2007



Street



Not to Scale

Arrows indicate location and direction of photos

Site Sketch

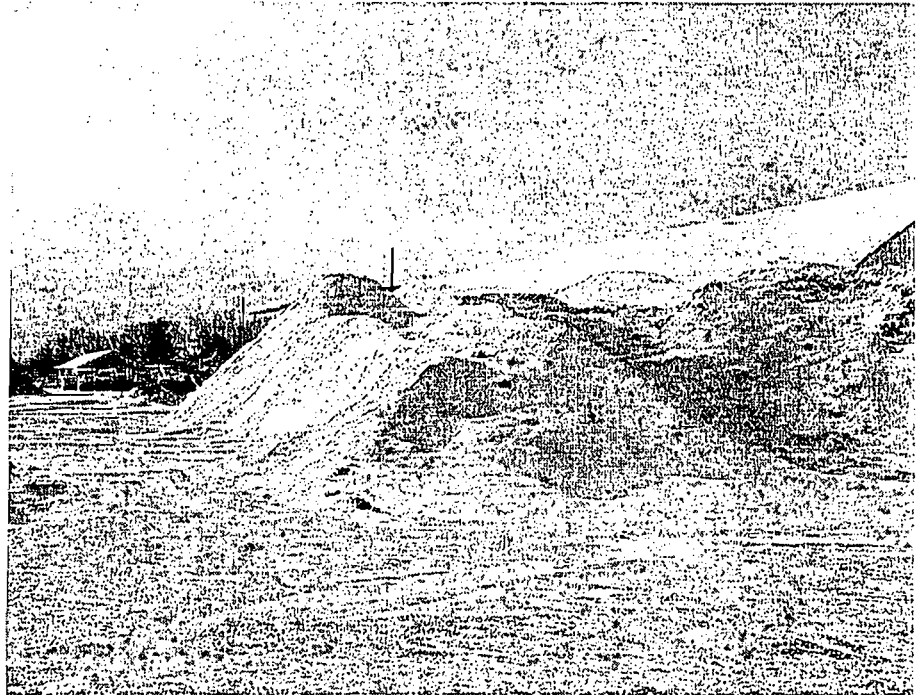


Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 09:49 AM
DIRECTION: South
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-001.jpg
COMMENTS: Pile of chipped
wood from pallets.



DATE: 01-22-2008
TIME: 09:50 AM
DIRECTION: Southeast
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-002.jpg
COMMENTS: Pile of broken
wooden pallets.





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 09:52 AM
DIRECTION: South
PHOTO by: Kenneth Keigley

PHOTO FILE NAME:
1830455031 ~ 01222008-003.jpg
COMMENTS: Pile of broken and
chipped wooden from pallets.



DATE: 01-22-2008
TIME: 09:54 AM
DIRECTION: North
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-004.jpg
COMMENTS: Wooden pallets and
pile of chipped wooden pallets.



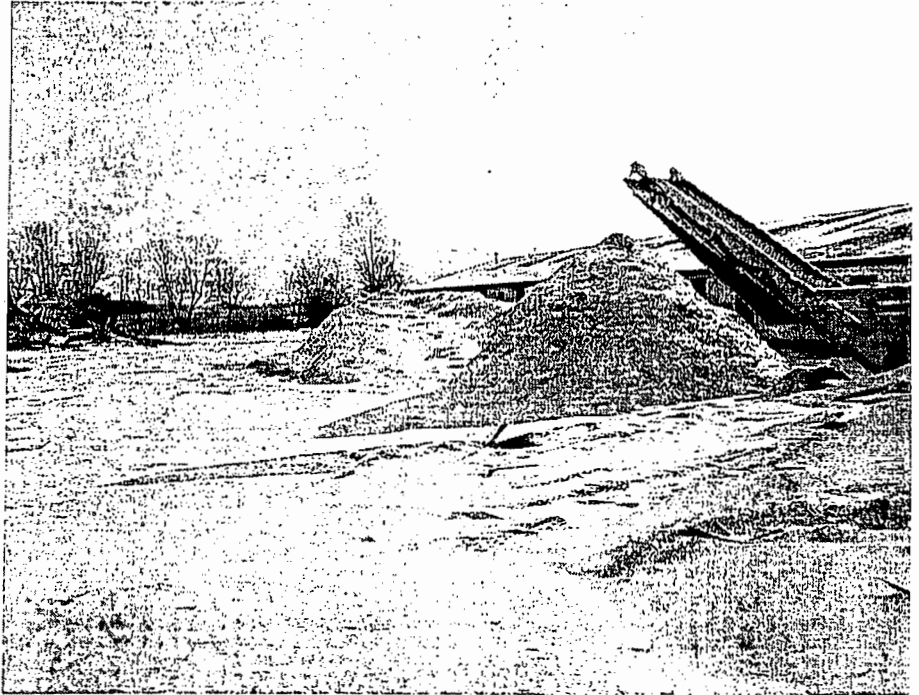


Illinois Environmental Protection Agency
Bureau of Land

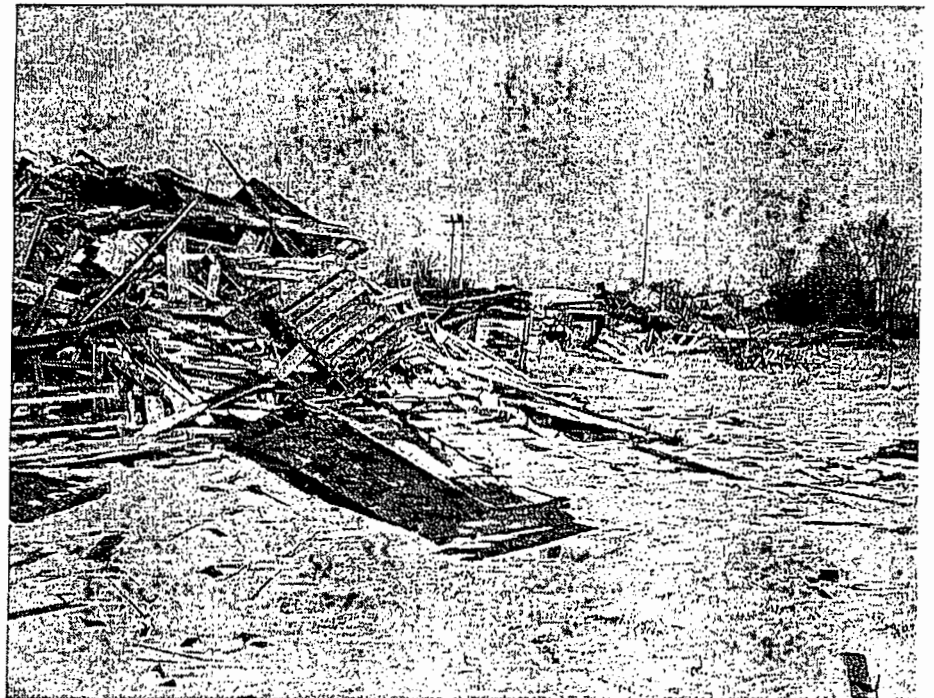
DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 09:55 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-005.jpg
COMMENTS: Piles of wood from
chipped pallets



DATE: 01-22-2008
TIME: 09:56 AM
DIRECTION: Northeast
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-006.jpg
COMMENTS: Piles of broken
wooden pallets





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

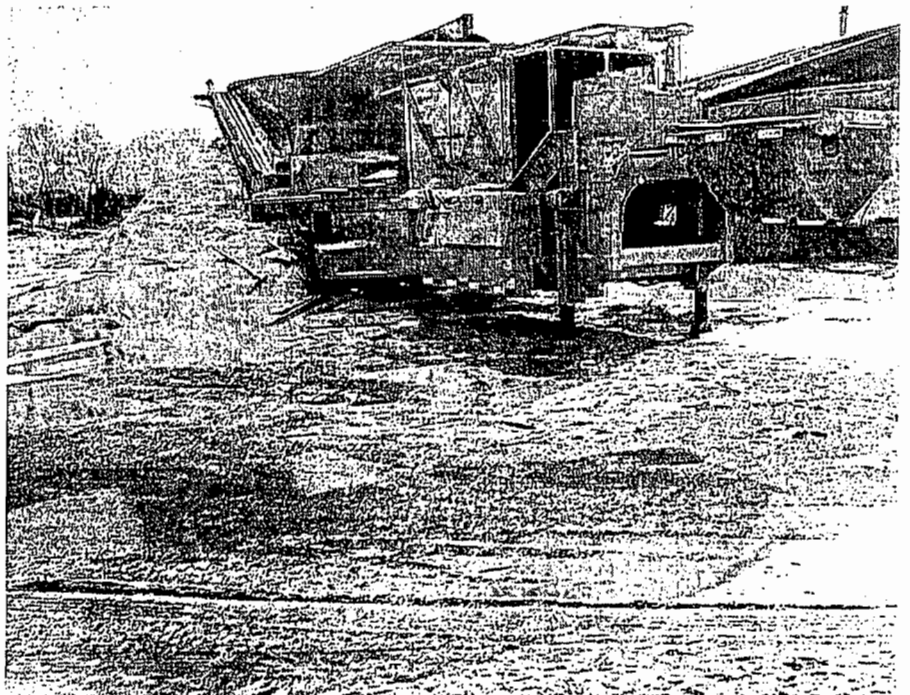
LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 09:56 AM
DIRECTION: West
PHOTO by: Kenneth Keigley

PHOTO FILE NAME:
1830455031 ~ 01222008-007.jpg
COMMENTS: Pile of broken
pallets



DATE: 01-22-2008
TIME: 09:59 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-008.jpg
COMMENTS: Wood chipper



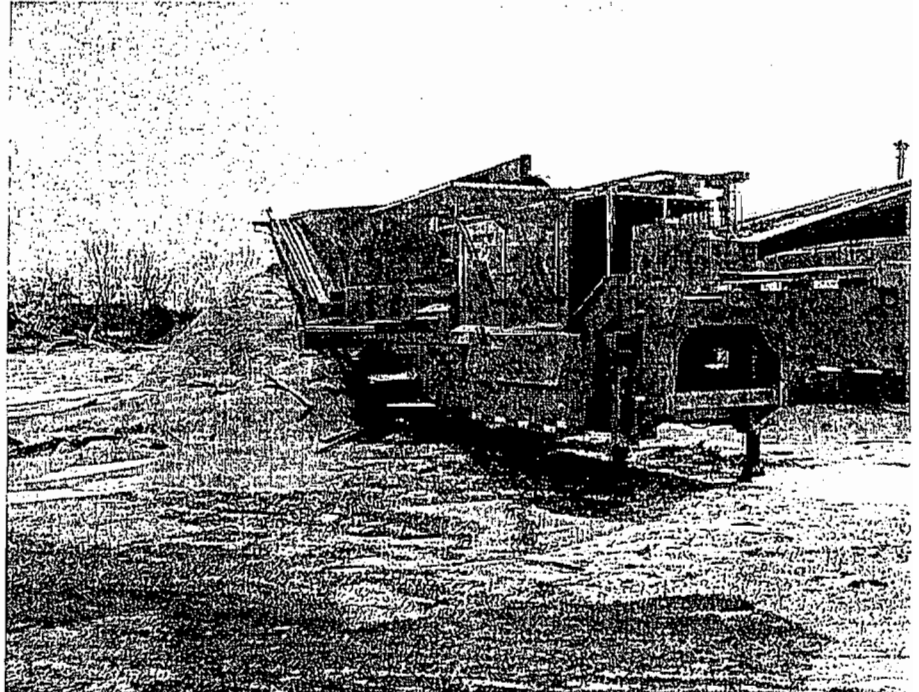


Illinois Environmental Protection Agency
Bureau of Land

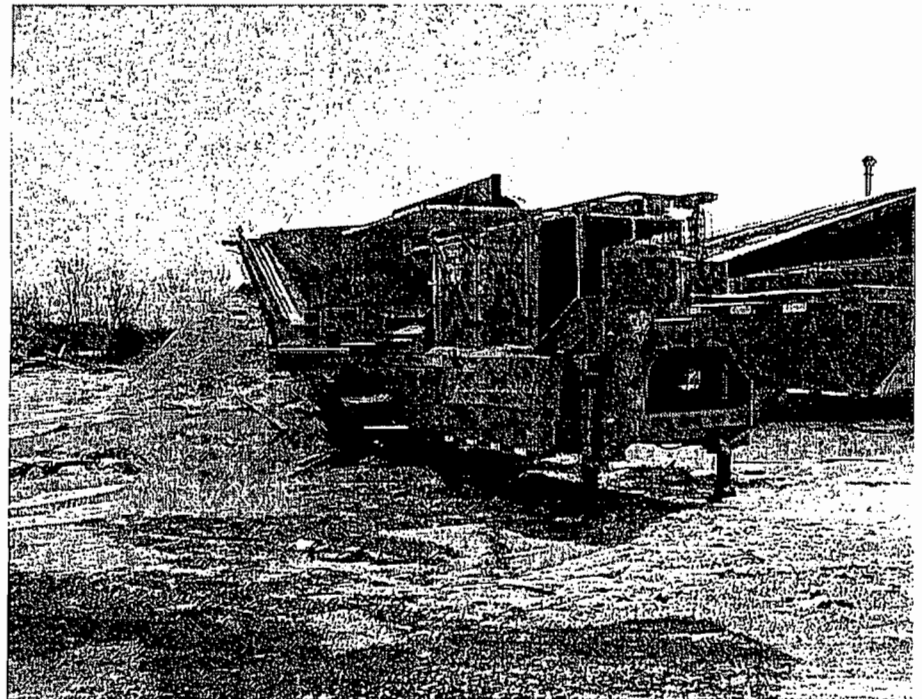
DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 10:00 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-009.jpg
COMMENTS: Second photo of
wood chipper



DATE: 01-22-2008
TIME: 10:00 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-010.jpg
COMMENTS: Third photo of wood
chipper





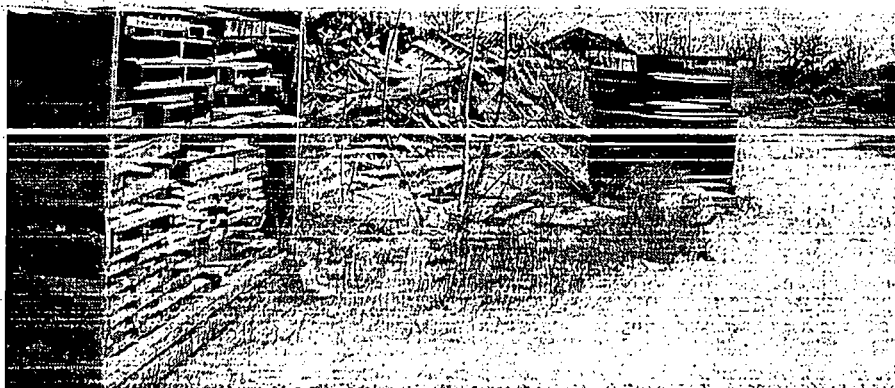
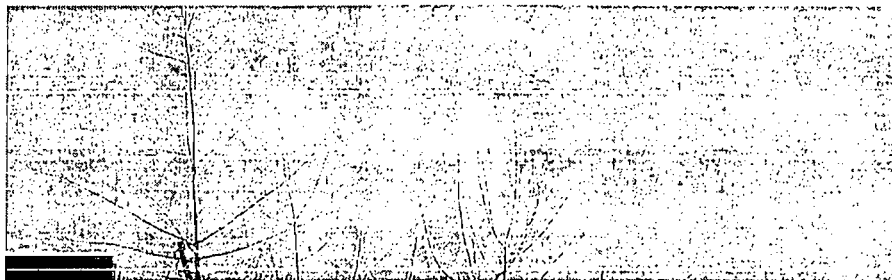
Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopeston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 10:01 AM
DIRECTION: East
PHOTO by: Kenneth Keigley

PHOTO FILE NAME:
1830455031 ~ 01222008-011.jpg
COMMENTS: More broken
wooden pallets



DATE: 01-22-2008
TIME: 10:02 AM
DIRECTION: South
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-012.jpg
COMMENTS: Broken wooden
pallets





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 10:03 AM
DIRECTION: East
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-013.jpg
COMMENTS: Pile of broken pallets



DATE: 01-22-2008
TIME: 10:03 AM
DIRECTION: North
PHOTO by: Kenneth Keigley
PHOTO FILE NAME:
1830455031 ~ 01222008-014.jpg
COMMENTS: Piles of broken
pallets





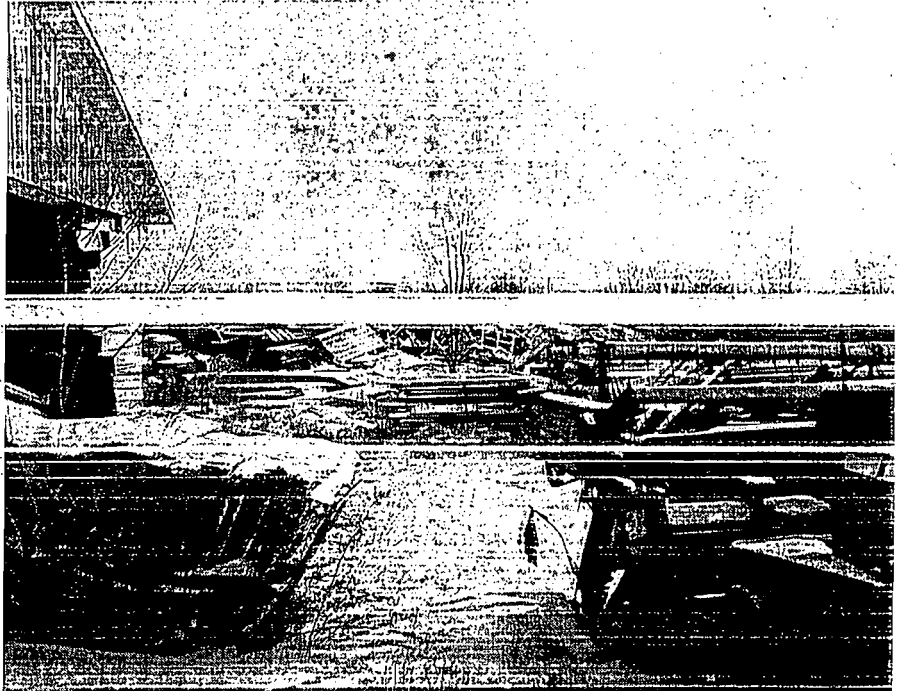
Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 1830455031 — Vermilion County
Hoopston/MAB Pallets LLC
FOS File

DATE: 01-22-2008
TIME: 10:04 AM
DIRECTION: East
PHOTO by: Kenneth Keigley

PHOTO FILE NAME:
1830455031 ~ 01222008-015.jpg
COMMENTS: Pile of broken pallets



1830455031 - VERMILION 40312-AB
HOPESTON/M&N PALLETS LLC
FOS
91-10980

M

Document No. _____ State of Illinois, County of Vermillion

This instrument was filed for record at _____ o'clock ____ M. on _____, 1991.

Recorder

WARRANTY DEED

THE GRANTOR, THE PILLSBURY COMPANY, a Delaware corporation, for and in consideration of \$10.00 and other good and valuable consideration in hand paid, the receipt of which is hereby acknowledged, CONVEYS AND WARRANTS to M & N PALLET, INC., an Illinois corporation, the following described real estate:

Part of Lots 1 and 2 in G. H. White's Subdivision situated in Section 14, Township 23 North, Range 12 West of the 2nd P.M., City of Hoopston, Vermillion County, Illinois, being further described as all that part of Lot 1 lying East of the East right-of-way line of Second Avenue, EXCEPT the north 258 feet thereof. ALSO all that part of Lot 2 lying east of the east right-of-way line of Second Avenue, situated in Vermillion County, Illinois.

SUBJECT TO

- (1) All easement, restrictions and reservations of record, and
- (2) General real estate taxes for 1991 and thereafter,

hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of said State.

Dated this 26th day of November, 1991.

RELEASABLE

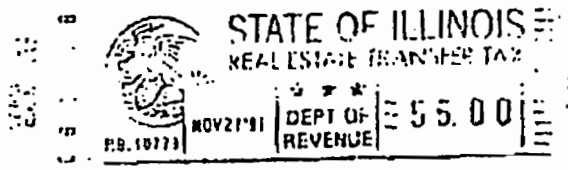
THE PILLSBURY COMPANY FEB 29 2008
a Delaware corporation,

By: [Signature] REVIEWER MD
Its: [Signature]

ATTEST:

[Signature]
Asst. Sec.

Send tax statement to: M&N Pallet, Inc., R.R. 2, Box 126D, Potomac, Illinois 61865



VERMILION COUNTY TAX
#27.50
PAID

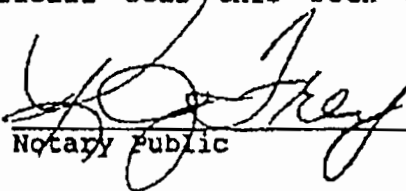
183 045 5031 - VERMILION
HOOPESTON/MAB PALLET LLC
FOS

91-10980

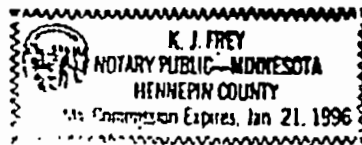
STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Jerome J. Junko and Diane V. Leary, personally known to me to be the Senior Vice President and Asst. Secretary respectively of THE PILLSBURY COMPANY, a Delaware corporation, appeared before me this day and acknowledged that they executed and duly delivered said instrument as the voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of November, 1991.


Notary Public

Prepared by Jerry A. Davis



ddced.nul

State of Illinois }
County of Vermilion } 91-10980

I certify that this instrument was filed
for record NOV 27 1991
at 1:55 o'clock P. M.

Judith A. Mearns - Recorder

15

Open Dump Inspection Checklist

County: Vermilion LPC#: 1830455031 Region: 4 - Champaign
 Location/Site Name: Hoopeston/MAB Pallets, LLC.
 Date: 05/19/2009 Time: From 11:30 am To 12:10 pm Previous Inspection Date: 01/22/2008
 Inspector(s): Mike Mullins Weather: sunny - 69 degrees
 No. of Photos Taken: # 8 Est. Amt. of Waste: 8000 yds³ Samples Taken: Yes # No
 Interviewed: Mr. Lowell Null, Owner Complaint #:
 Latitude: 40.45818 Longitude: -87.67244 Collection Point Description: Center of Site - error 7.5 feet
 (Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS - Garmin GpsMap 76S

Responsible Party Mailing Address(es) and Phone Number(s): Lowell Null, Owner MAB Pallets LLC 1100 South Second Ave Hoopeston, Illinois 60942 Phone Number 217/283-9606	Mr. Derek Girton, Registered Agent 11 E North St. Danville, IL 61832
--	--

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ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
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6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
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	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input 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"/>



Electronic Filing - Received, Clerk's Office, August 18, 2011

LPC # 1830455031

Inspection Date: 05/19/2009

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input type="checkbox"/>
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	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
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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 TRANSPORTED 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"/>

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
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 19, 2009

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

General Comments:

On May 19, 2009 at 11:30 A.M., I conducted an inspection at the MAB Pallet, LLC. facility, located at 1100 South Second Avenue, Hoopeston, Illinois 60942.

This inspection was conducted as a follow up to inspections conducted on January 22, 2008 and May 29, 2007, which resulted in a Violation Notice dated June 27, 2007 being sent alleging open dumping of waste, specifically broken wooden pallets and chipped wooden pallets.

The purpose of this inspection was to determine regulatory status and evaluate compliance with the Illinois Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The inspection consisted of walking around the site, taking pictures, and talking to Mr. Lowell Null, owner. The weather was sunny, the temperature 19 degrees.

Background:

This facility operated for years as a vegetable product canning facility. In 1991 the facility was purchased by M & N Pallet Company, Inc., which was listed as involuntarily dissolved in December of 2006. The facility corporate name changed to MAB Pallet Company, LLC in December of 2006 in the Illinois Secretary of State's corporate status data base reflects that an Involuntary Dissolution occurred on November 14, 2008. The last Registered Agent for MAB Pallet Company was Mr. Derek Girton, 11 E North Street, Danville, IL 61832.

Mr. Null, apparent owner of M & N and MAB Pallets, purchased the site in 1991 and operated the site as a pallet refurbishing company, exclusively for pallets from Silgan Can Company. The waste observed on the site consists of un-repairable pallets and grindings from un-repairable pallets.

Inspection:

When I arrived at the site I went into the facility office and told Mr. Null I was there to re-inspect the site to investigate what progress had been made in removing the waste pallets on the site. He said he had ground some pallets in 2008 but does not currently have a grinder. He said he had woodchips available for sale as livestock bedding from the last time pallets were ground.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 19, 2009

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

I inquired about sending pallets to the power plant in the Chicagoland Area and Mr. Null stated that he toured the facility but the facility was expecting the woodchips/pallet waste to be delivered free of charge and Mr. Null stated that he could not enter into that business agreement. Mr. Null then confirmed that no pallets or pallet waste materials went to the power plant.

From previous reports, it had been an accumulation of approximately 10 years. I explained to Mr. Null that properly managing the generated wastes are what is expected by the regulations. I explained that a business of this type would be expected to generate wood wastes and that the wastes are not to be accumulated but properly disposed. Some options for disposal would be to send the wood to a power plant that can burn the wood for energy, process the wood into chips or mulch for sale in the woodchip market or take to a permitted landfill or transfer station. The Illinois EPA may also accept other disposal alternatives if prior approval is requested.

Mr. Null said none of the pallets were made from treated wood and the wood is not waste. I explained to Mr. Null that the wood may not be considered waste if they are legitimately recycled but if the pallets are accumulated for several years and no longer have any value as pallet or the wood has no market then they potentially could be considered a waste. Mr. Null stated that the older and weathered pallets are not marketable to the “canning industry” because the factories want “shiny” pallets. We briefly discussed possible uses for the pallets, the discussion ending with me telling Mr. Null that if a legitimate use was not found for the pallets they are considered waste and must be disposed at a permitted landfill. With his permission I then walked the site.

I first saw a pile of pallets outside a building just east of the office. This possibly is the receiving and shipping area for pallets (photo 1). I observed just east of the buildings a pile of broken wood (photo 2). I also observed a pile of metal drums of various colors, it appeared that the drums were empty (photo 3). Observed southeast of the polebarn type buildings was a pile of broken and aged pallets (photo 4). Observed southeast of the buildings and near the perimeter to the east of the property was a pile of shingles (photo 5). Observed north of the buildings were several piles of chipped wood (photos 6,7,8).

There were more pallets scattered around the site and in buildings, which for the time being, I assumed were awaiting refurbishing (no photo).

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 19, 2009

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

I left the site at approximately 12:10 p.m.

Apparent continuing violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

- #1 Pursuant to Section 21(a) of the Act, no one shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **waste was open dumped on the site.**

- #2 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was disposed of at this site which does not meet the requirements of the Act and Regulations thereunder.**

- #3 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

Illinois Environmental Protection Agency

Bureau of Land ♦ Field Operations Section ♦ Champaign Region

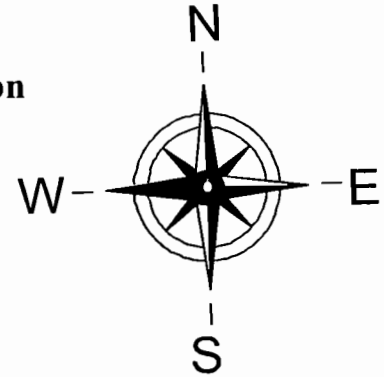
1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

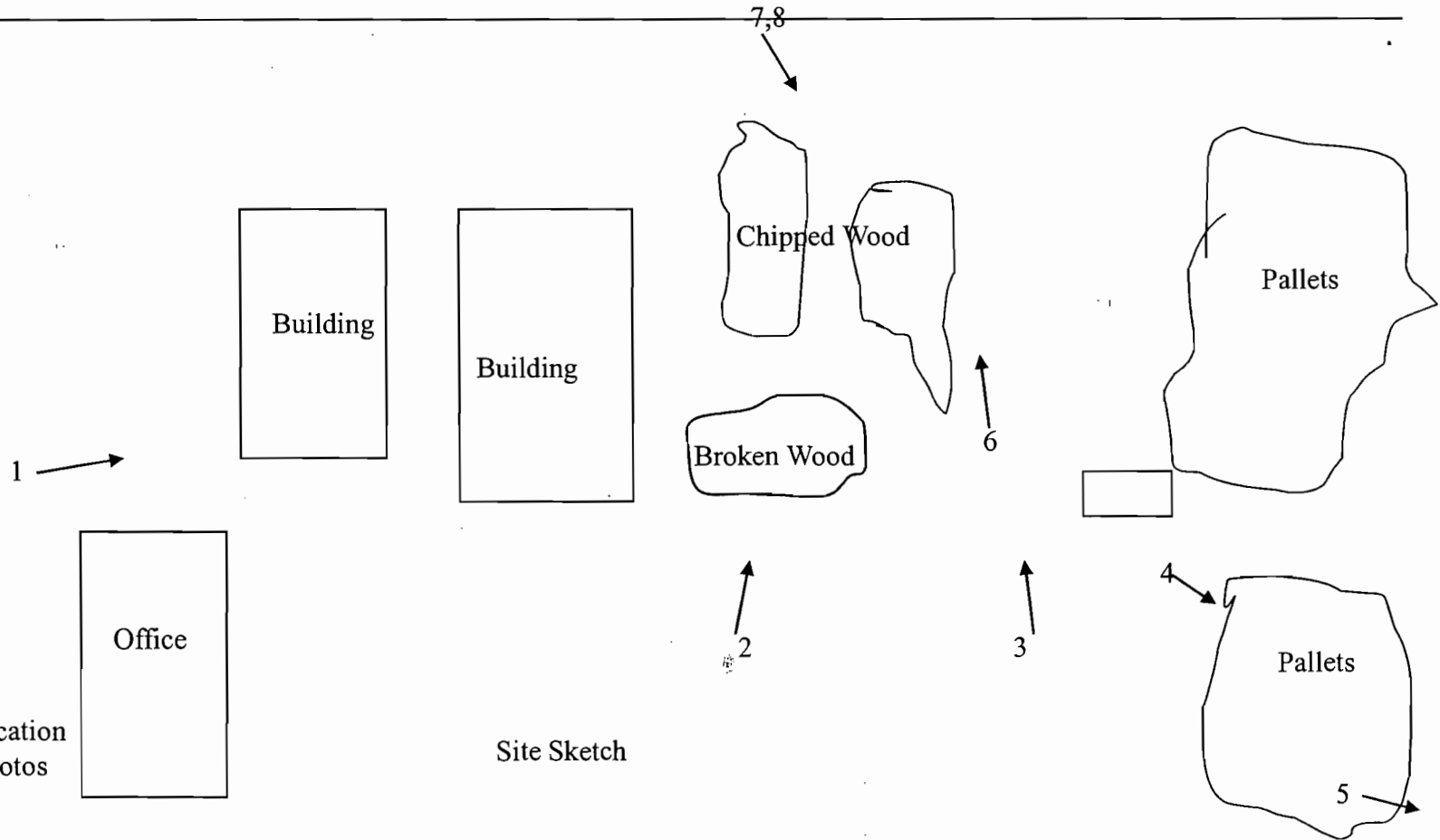
FOS

Inspector: Mike Mullins

Date: May 19, 2009



Street



Not to Scale

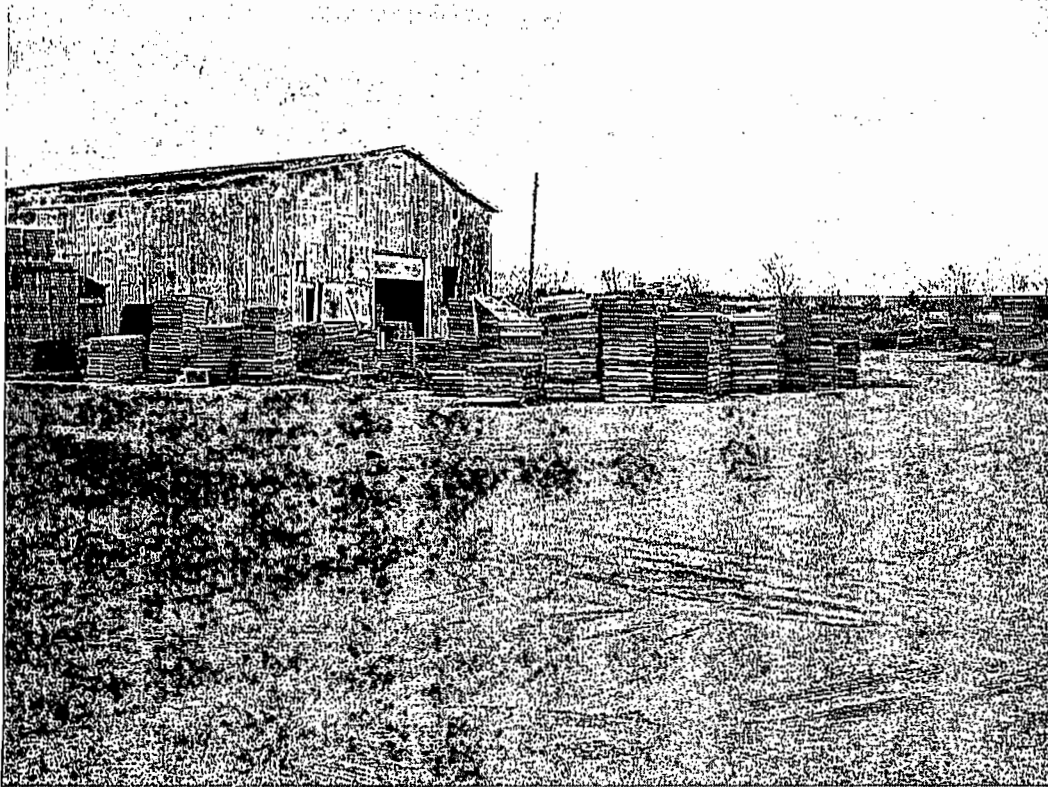
Arrows indicate location and direction of photos

Site Sketch



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05192009-[Exp. #].jpg



Date: May 19, 2009
Time: 11:36 a.m.
Direction: East
Photo by: Mike Mullins
Exposure #: 001
Comments:

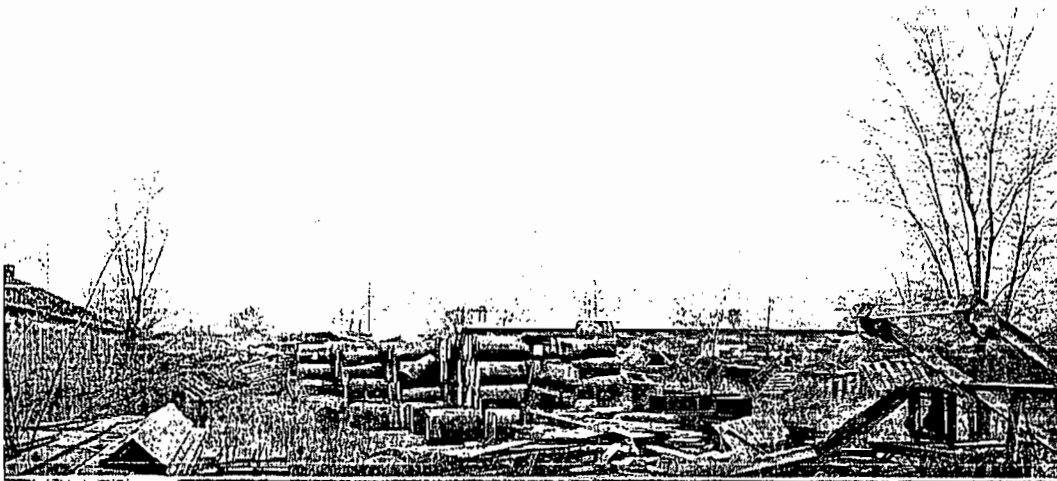


Date: May 19, 2009
Time: 11:39 a.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 002
Comments:

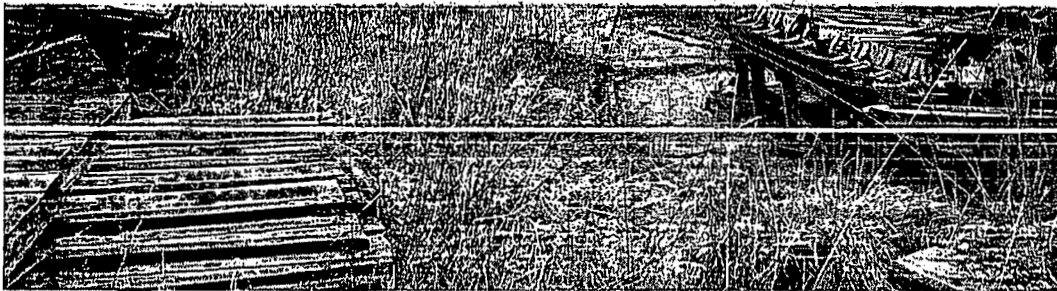


DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05192009-[Exp. #].jpg



Date: May 19, 2009
Time: 11:43 a.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 003
Comments:



Date: May 19, 2009
Time: 11:57 a.m.
Direction: Southeast
Photo by: Mike Mullins
Exposure #: 004
Comments:



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05192009-[Exp. #].jpg



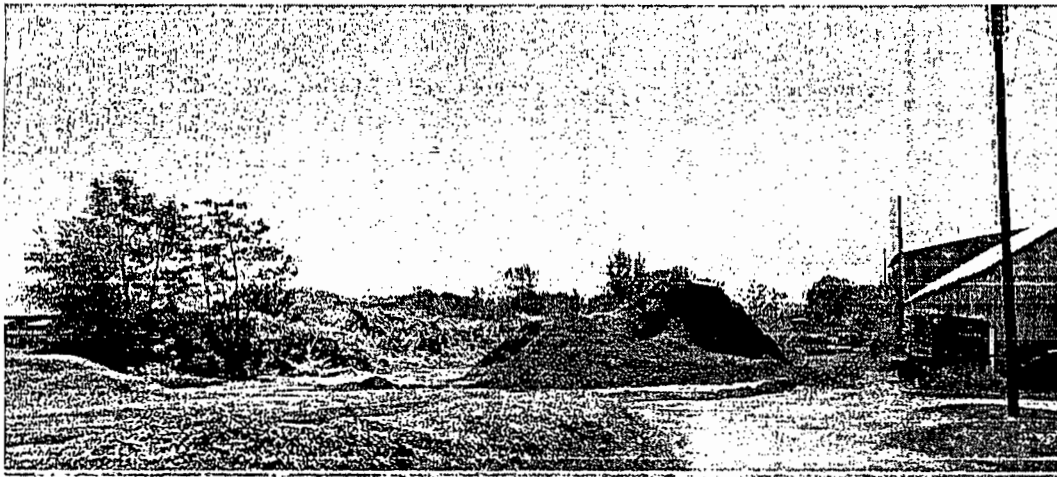
Date: May 19, 2009
Time: 12:01 p.m.
Direction: East
Photo by: Mike Mullins
Exposure #: 005
Comments:



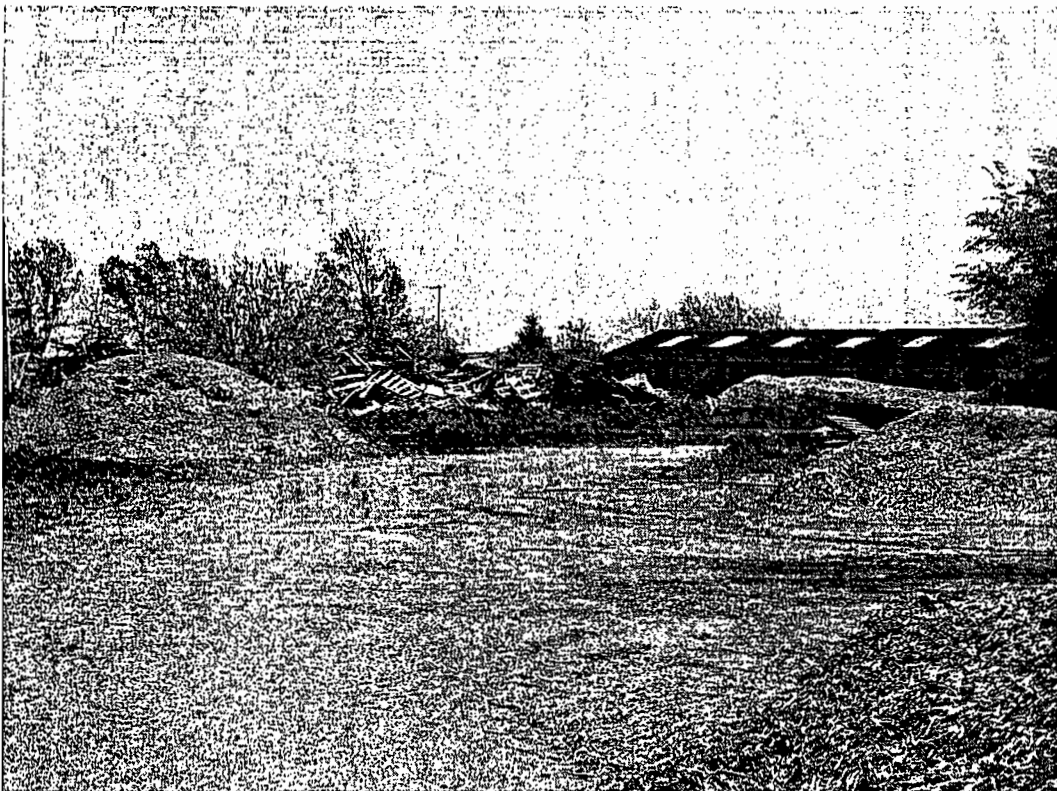
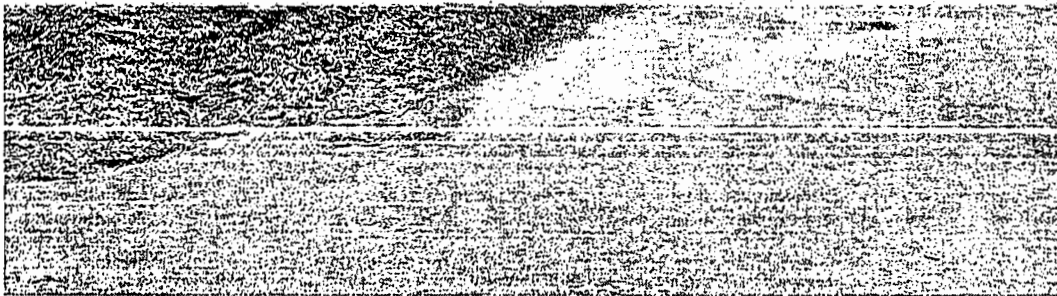
Date: May 19, 2009
Time: 12:04 p.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 006
Comments:



DIGITAL PHOTOGRAPHS File Names: 1830455031 ~ 05192009-[Exp. #].jpg



Date: May 19, 2009
Time: 12:05 p.m.
Direction: South
Photo by: Mike Mullins
Exposure #: 007
Comments:



Date: May 19, 2009
Time: 12:06 p.m.
Direction: Southeast
Photo by: Mike Mullins
Exposure #: 008
Comments:



Electronic Filing - Received, Clerk's Office, August 18, 2011
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) 814-6026

PAT QUINN, GOVERNOR

DOUGLAS P. SCOTT, DIRECTOR

217/278-5800
FAX: 217/278-5808

June 9, 2009

MAB Pallets, LLC
Lowell Null, Owner
1100 South Second Avenue
Hoopeston, Illinois 60942

Re: LPC # 1830455031 - Vermilion County
Hoopeston/MAB Pallets, LLC
Compliance File

RECEIVED
JUN 10 2009
IEPA/BUL

Dear Null:

On May 19, 2009, an inspection of your facility was conducted by Mike Mullins representing the Illinois Environmental Protection Agency. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the Illinois Environmental Protection Act (Act) 415 ILCS 5/4(c) and (d) (1992). The purpose of this inspection was to determine compliance with the [Illinois] Environmental Protection Act and 35 Ill. Adm. Code, Subtitle G.

Your request for information of companies and individuals that could help in resolving your violations at the site cannot be provided by the Illinois Environmental Protection Agency. Any recommendations made by the Agency would appear an unfair advantage for listed business and an unfair disadvantage to the business not on the list.

A copy of this inspection report is enclosed. Please note that this matter is currently under review by the Agency's Division of Legal Counsel. Please contact Kyle Davis at 217/782-5544 if you have any questions regarding this inspection.

Sincerely,

Richard A. Gerard, Manager
Bureau of Land
Champaign Region

RELEASABLE

JUN 16 2009

REVIEWED

Enclosure

bec: Division File
Region File Champaign
Vermilion Co Health Dept.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 18, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

General Comments:

On May 18, 2010 at 12:15 P.M., I conducted an inspection at the MAB Pallet, LLC. facility, located at 1100 South Second Avenue, Hoopeston, Illinois 60942.

This inspection was conducted as a follow up to inspections conducted on May 19, 2009, January 22, 2008 and May 29, 2007, which resulted in a Violation Notice dated June 27, 2007 being sent alleging open dumping of waste, specifically broken wooden pallets and chipped wooden pallets.

The purpose of this inspection was to determine regulatory status and evaluate compliance with the Illinois Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The inspection consisted of walking around the site, taking pictures, and talking to Mr. Lowell Null, owner. The weather was sunny, the temperature 65 degrees.

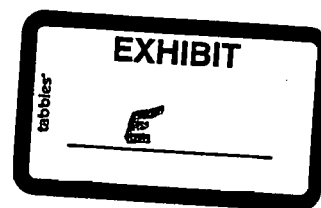
Background:

This facility operated for years as a vegetable product canning facility. In 1991 the facility was purchased by M & N Pallet Company, Inc., which was listed as involuntarily dissolved in December of 2006. The facility corporate name changed to MAB Pallet Company, LLC in December of 2006 in the Illinois Secretary of State's corporate status data base reflects that an Involuntary Dissolution occurred on November 14, 2008. The last Registered Agent for MAB Pallet Company was Mr. Derek Girton, 11 E North Street, Danville, IL 61832.

Mr. Null, apparent owner of M & N and MAB Pallets, purchased the site in 1991 and operated the site as a pallet refurbishing company, exclusively for pallets from Silgan Can Company. The waste observed on the site consists of un-repairable pallets and grindings from un-repairable pallets.

Inspection:

When I arrived at the site I went into the facility office that no longer exists. A worker in the building stated that he was just doing a waste removal as directed by the new owner and to contact the owner driving the excavator in the yard east of the building.



Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

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GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

I proceeded east of the office building where I observed an excavator loading metal into a semi-truck (photo 1). There was also a forklift operating on the site (photo 1). I briefly spoke with the truck driver who stated that he was just a truck driver and that Mr. Alan Decker was removing the metals from the site and he was hauling the metal to Bryant's, a Danville Illinois Metal Recycling Company. Observed driving the forklift was Lowell Null, last known owner of the property. I briefly spoke with

asked Mr. Null what he was going to do with the waste wood and he stated that he had permission from the City of Hoopeston burn in the southeast corner of the property. I asked Mr. Null if he had contacted the Illinois Environmental Protection Agency about the proposed burning and he stated "No".

Mr. Null further stated that he had been burning in the southeast corner of the site. I stated that I would take a look at the burn area and that waste wood is waste and is not to be burned. I proceeded to the southeast corner of the property. I observed that the metal drums previous observed in early inspections were still on site (photo 2). The excavator was observed to be sorting and loading metal into semi-trucks (photo 3). A pile of shingles that were previous observed in earlier inspection was still on site (photo 4).

Observed on the east and southeast portion of the property was an area that had been cleared of trees and other wastes (photo 5). A pile of brush was observed pushed up against the east property fence (photo 6). I then proceed north into the cleared property and observed two areas where burning had occurred and on small pile of debris was still smoldering (photos 7,8).

I then walked back toward the office area where I observed partially demolished concrete block buildings that had painted concrete blocks. I left the site at approximately 12:35 p.m. and went to Hoopeston City Hall.

At City Hall I made contact with the Police Dispatcher who stated that I needed to talk to someone in another room of the building. I then went to the other room which appeared to be the City Clerks Office and briefly spoke with an unnamed lady who stated I needed to speak with Loni, who was at lunch.

I later made contact with Loni by telephone and was able to determine that no one from the City of

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 18, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

Hoopeston had given anyone permission to burn at the MAB Pallet property. Loni also informed me that Alan Decker had been to City Hall and expressed an interest in purchasing the property. Apparently Mr. Decker, a farmer from the Wellington Illinois area, had contacted the City and was thinking about purchasing the property if he could economically clean up the site and reutilize the property. I explained to Loni that the IEPA had already determined the waste pallets, crating material and lumber were waste and could not be open burned. The options for disposal include taking the waste wood to the landfill, shredding and/or grinding the waste wood and taking to the landfill, or if another idea for disposal is thought of that the idea must be presented to the IEPA for approval. If on-site burning is considered, it would require a permit from the IEPA's Bureau of Air in Springfield, and would likely not be approved.

All previous violations of open dumping of waste wood remained and additional violations of open burning were observed during this inspection.

Apparent continuing violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

#1 Pursuant to Section 21(a) of the Act, no one shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **waste was open dumped on the site.**

#2 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was disposed of at this site which does not meet the requirements of the Act and Regulations thereunder.**

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 18, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

- #3 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

Apparent new violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act" }

- #1 Pursuant to Section 9(a) of the Act. Cause, threaten, or allow air pollution in Illinois.

A violation of Section 9(a) is alleged for the following reason: **Evidence of open burning, which would cause or tend to cause air pollution in Illinois was observed during this inspection.**

- #2 Pursuant to Section 9(c) of the Act. No one shall cause or allow open burning of refuse.

A violation of Section 9(c) is alleged for the following reason: **Evidence of open burning of waste wood was observed at the site during this inspection.**

- #3 Pursuant to Section 21(d)(1) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency.

A violation of Section 21(d)(1) is alleged for the following reason: **a waste disposal operation was conducted without a permit granted by the Agency.**

- #4 Pursuant to Section 21(d)(2) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of regulations adopted by the Illinois Pollution Control Board.

A violation of Section 21(d)(2) is alleged for the following reason: **a waste disposal**

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: May 18, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

operation was conducted in violation of regulations adopted by the Illinois Pollution Control Board.

- #5 Pursuant to Section 21(p)(3) of the Act, no one shall cause or allow the open burning of any waste in a manner which results in open burning.

A violation of Section 21(p)(3) is alleged for the following reason: **evidence of open dumping resulting in open burning was observed during the inspection.**



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05182010-[Exp. #].jpg



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: East
Photo by: Mike Mullins
Exposure #: 001
Comments:



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 002
Comments:

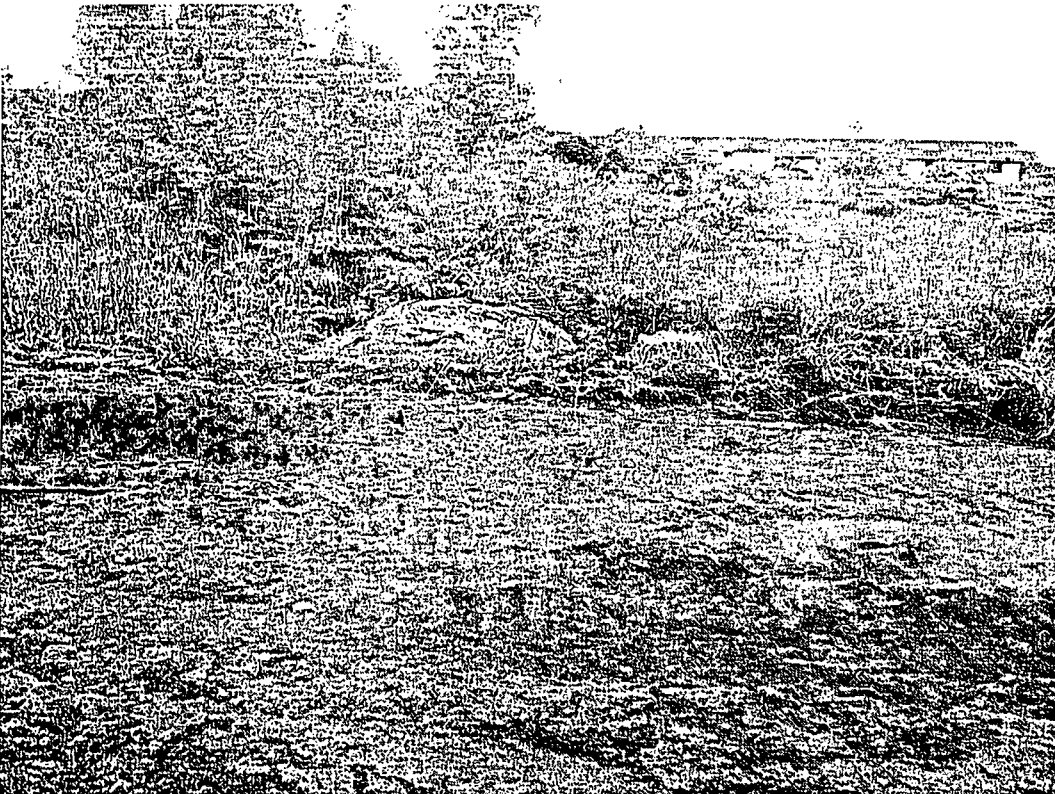
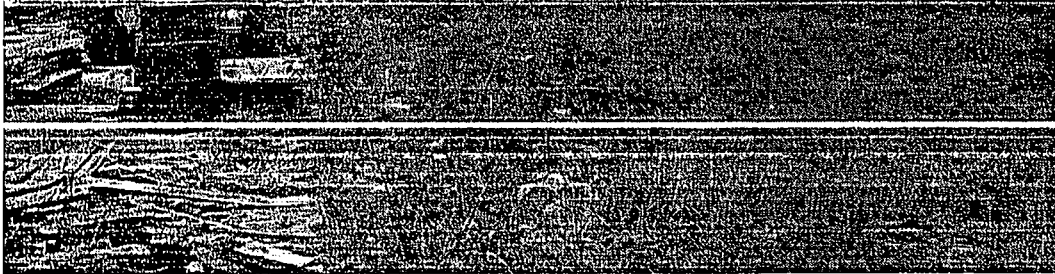


DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05182010-[Exp. #].jpg



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 003
Comments:



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 004
Comments: Shingles



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05182010-[Exp. #].jpg

Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 005
Comments: Cleared
area



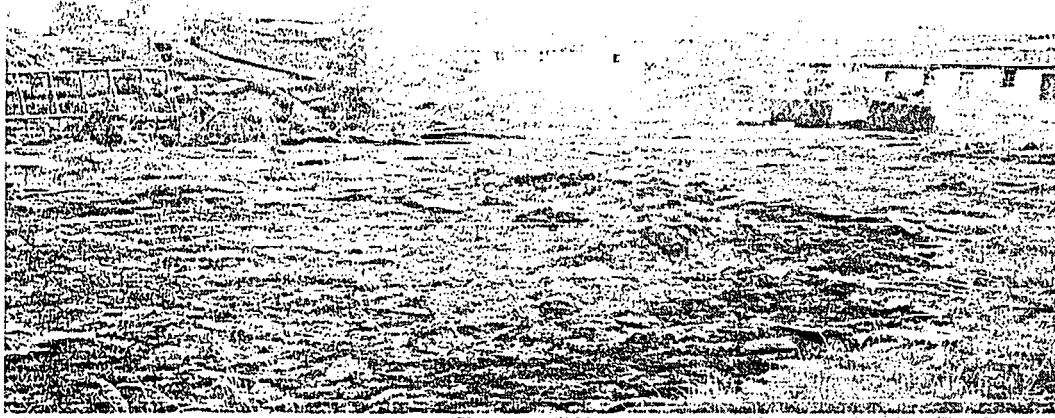
Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: East
Photo by: Mike Mullins
Exposure #: 006
Comments: Brush



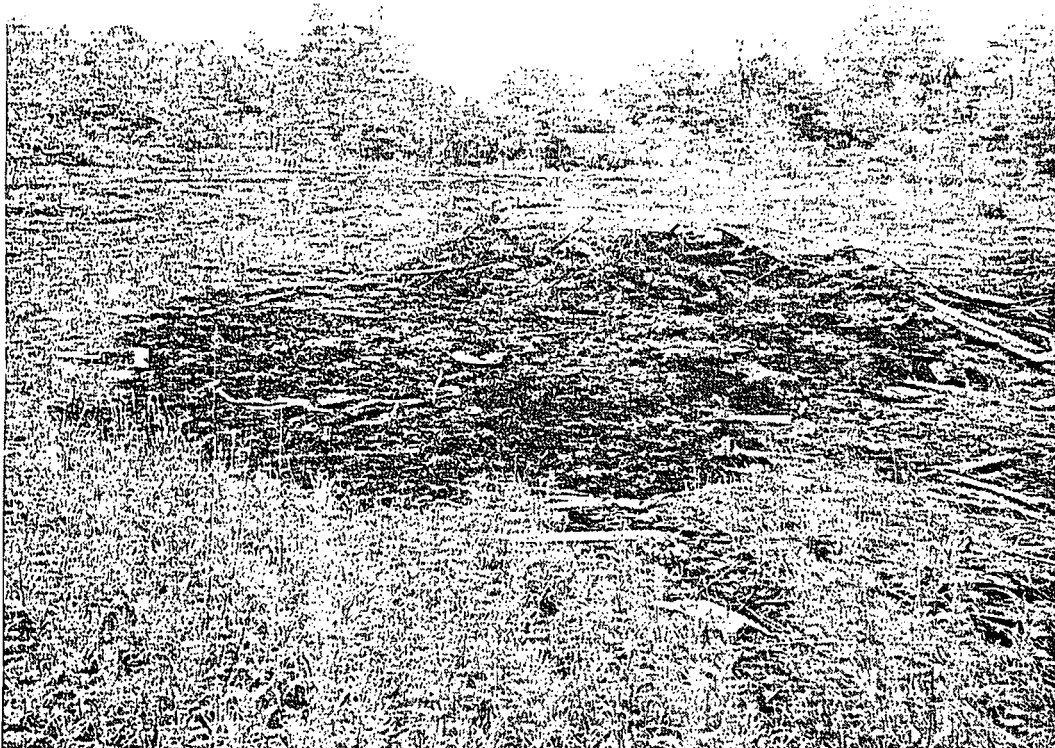
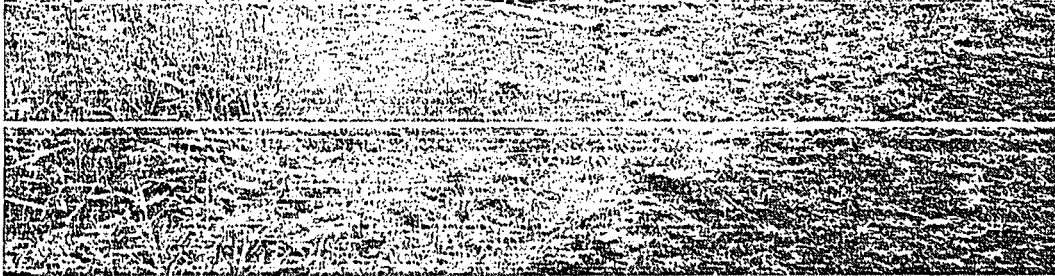


DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 05182010-[Exp. #].jpg



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: West
Photo by: Mike Mullins
Exposure #: 007
Comments: Debris
burn area



Date: May 18, 2010
Time: 12:20-12:30 p.m.
Direction: Southeast
Photo by: Mike Mullins
Exposure #: 008
Comments: Debris
burn area

Electronic Filing - Received, Clerk's Office, August 18, 2011
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Vermilion LPC#: 1830455031 Region: 4 - Champaign
 Location/Site Name: Hoopeston/MAB Pallets, LLC.
 Date: 07/20/2010 Time: From 11:15 a.m To 11:55 a.m Previous Inspection Date: 05/18/2010
 Inspector(s): Mike Mullins Weather: Muddy, 75 degrees
 No. of Photos Taken: # 5 Est. Amt. of Waste: 8000 yds³ Samples Taken: Yes # No
 Interviewed: No One Complaint #:
 Latitude: 40.45818 Longitude: -87.67244 Collection Point Description: Center of Site - error 7.5 feet
 Sample: Lat.: 41.26493 Long.: -89.38294 Collection Method: GPS - Garmin GpsMap 76S

Responsible Party
 Mailing Address(es)
 Phone Number(s):
 Lowell Null, Owner
 MAB Pallets LLC
 1100 South Second Ave
 Hoopeston, Illinois 60942
 Phone Number 217/283-9606

Mr. Derek Girton, Registered Agent
 11 E North St.
 Danville, IL 61832

RECEIVED
 AUG 12 2010
 IEPA/BOL

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 type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input 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"/>

EXHIBIT
 F

RELEASEABLE

AUG 27 2010

REVIEWER MD

LPC # 1830455031

Inspection Date: 07/20/2010

	(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"/>

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
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County
Hoopeston/MAB Pallets, Inc.
FOS

Inspector: Mike Mullins

Inspection Date: July 20, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSTMap 768) **RECEIVED**
JUG 1 2 2010

General Comments:

On July 20, 2010 at 11:15 P.M., I conducted an inspection at the MAB Pallet, LLC. facility, located at 1100 South Second Avenue, Hoopeston, Illinois 60942. **IEPA/BOL**

This inspection was conducted as a follow up to inspections conducted on May 18, 2010, May 19, 2009, January 22, 2008 and May 29, 2007, which resulted in a Violation Notice dated June 27, 2007 being sent alleging open dumping of waste, specifically broken wooden pallets and chipped wooden pallets.

The purpose of this inspection was to determine regulatory status and evaluate compliance with the Illinois Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The inspection consisted of walking around the site, taking pictures, and talking to Mr. Lowell Null, owner. The weather was sunny, the temperature 75 degrees.

Background:

This facility operated for years as a vegetable product canning facility. In 1991 the facility was purchased by M & N Pallet Company, Inc., which was listed as involuntarily dissolved in December of 2006. The facility corporate name changed to MAB Pallet Company, LLC in December of 2006 in the Illinois Secretary of State's corporate status data base reflects that an Involuntary Dissolution occurred on November 14, 2008. The last Registered Agent for MAB Pallet Company was Mr. Derek Girton, 11 E North Street, Danville, IL 61832.

Mr. Null, apparent owner of M & N and MAB Pallets, purchased the site in 1991 and operated the site as a pallet refurbishing company, exclusively for pallets from Silgan Can Company. The waste observed on the site consists of un-repairable pallets and grindings from un-repairable pallets.

Inspection:

When I arrived at the site I entered from the north (Route 9). No one was observed on site to interview. I started the inspection by walking around the site and taking photos.

RELEASABLE

AUG 27 2010

REVIEWED AND

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

Inspection Date: July 20, 2010

GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

Observed remaining on site were wood chips, pallets and metals. The packing and/or crating materials seen in Photo 3 had not previously been noted in a report but were observed on site. Also not previously noted was a broken boat which contained an inboard engine.

The site has been partially cleaned up since the last visit in May 2010. Construction equipment was observed on site though not clean up activity was observed during this inspection.

All previous violations of open dumping of waste wood remained. No observed recent burning at this site.

Apparent continuing violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

#1 Pursuant to Section 21(a) of the Act, no one shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **waste was open dumped on the site.**

#2 Pursuant to Section 21(e) of the Act, no person shall dispose, treat, store or abandon any waste or transport any waste into this State for disposal, treatment, storage, or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **waste was disposed of at this site which does not meet the requirements of the Act and Regulations thereunder.**

#3 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

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FOS

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GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting in litter.**

Apparent new violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

#1 Pursuant to Section 9(a) of the Act. Cause, threaten, or allow air pollution in Illinois.

A violation of Section 9(a) is alleged for the following reason: **Evidence of open burning, which would cause or tend to cause air pollution in Illinois was observed during this inspection.**

#2 Pursuant to Section 9(c) of the Act. No one shall cause or allow open burning of refuse.

A violation of Section 9(c) is alleged for the following reason: **Evidence of open burning of waste wood was observed at the site during this inspection.**

#3 Pursuant to Section 21(d)(1) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency.

A violation of Section 21(d)(1) is alleged for the following reason: **a waste disposal operation was conducted without a permit granted by the Agency.**

#4 Pursuant to Section 21(d)(2) of the Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of regulations adopted by the Illinois Pollution Control Board.

A violation of Section 21(d)(2) is alleged for the following reason: **a waste disposal operation was conducted in violation of regulations adopted by the Illinois Pollution Control Board.**

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

FOS

Inspector: Mike Mullins

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GIS Data: Latitude-N40.45818°, Longitude-W-087.67244° error 7.5 (Garmin GPSMap 76S)

#5 Pursuant to Section 21(p)(3) of the Act, no one shall cause or allow the open burning of any waste in a manner which results in open burning.

A violation of Section 21(p)(3) is alleged for the following reason: **evidence of open dumping resulting in open burning was observed during the inspection.**

Bureau of Land ♦ Field Operations Section ♦ Champaign Region

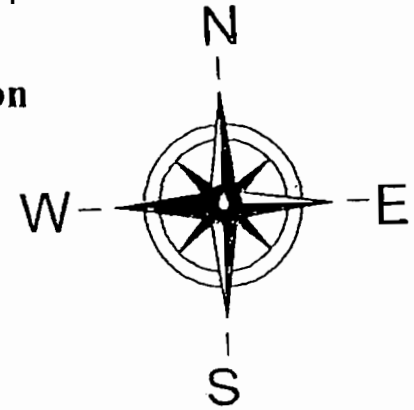
1830455031 – Vermilion County

Hoopeston/MAB Pallets, Inc.

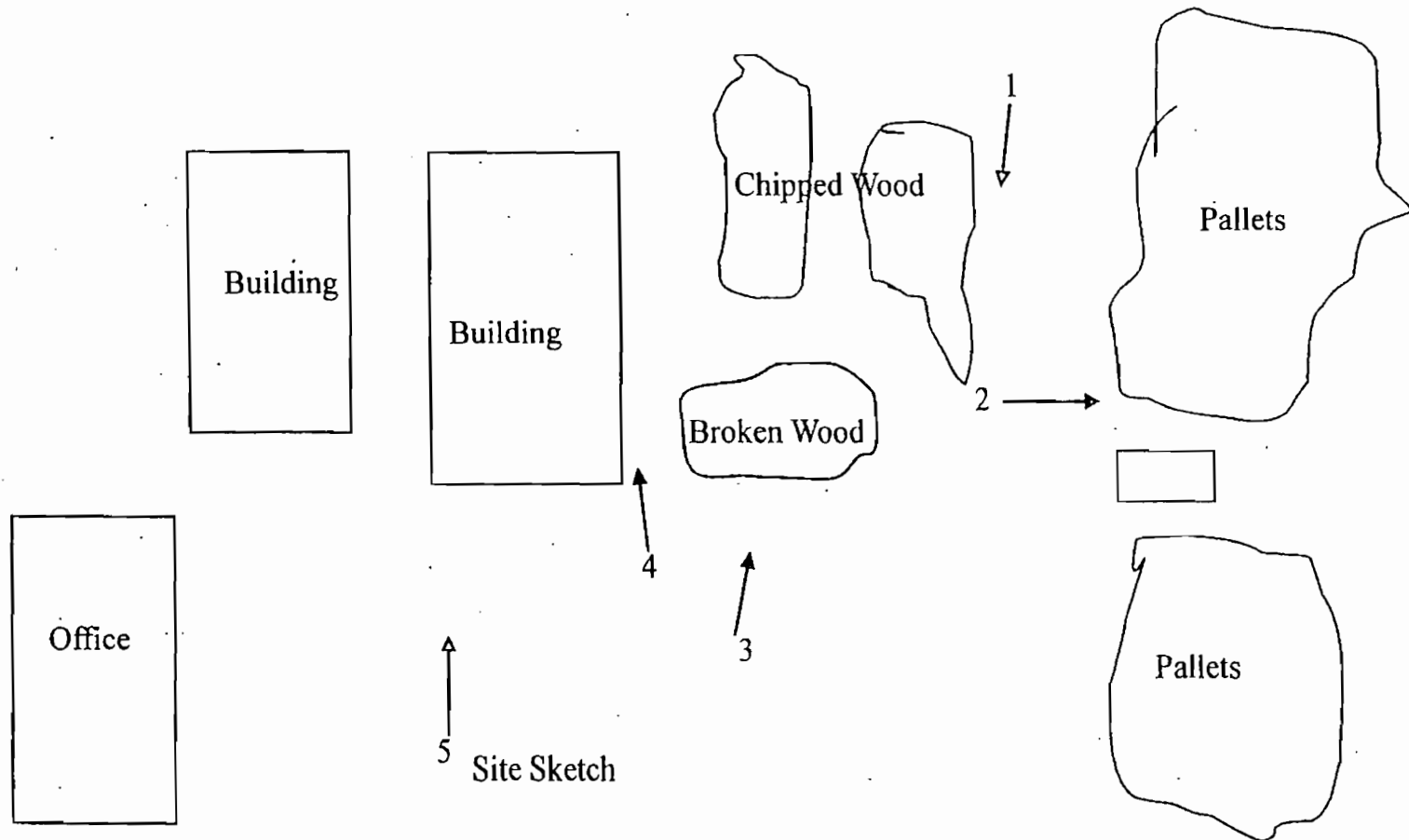
FOS

Inspector: Mike Mullins

Date: July 20, 2010



Illinois Route 9



Not to Scale

Arrows indicate location
and direction of photos

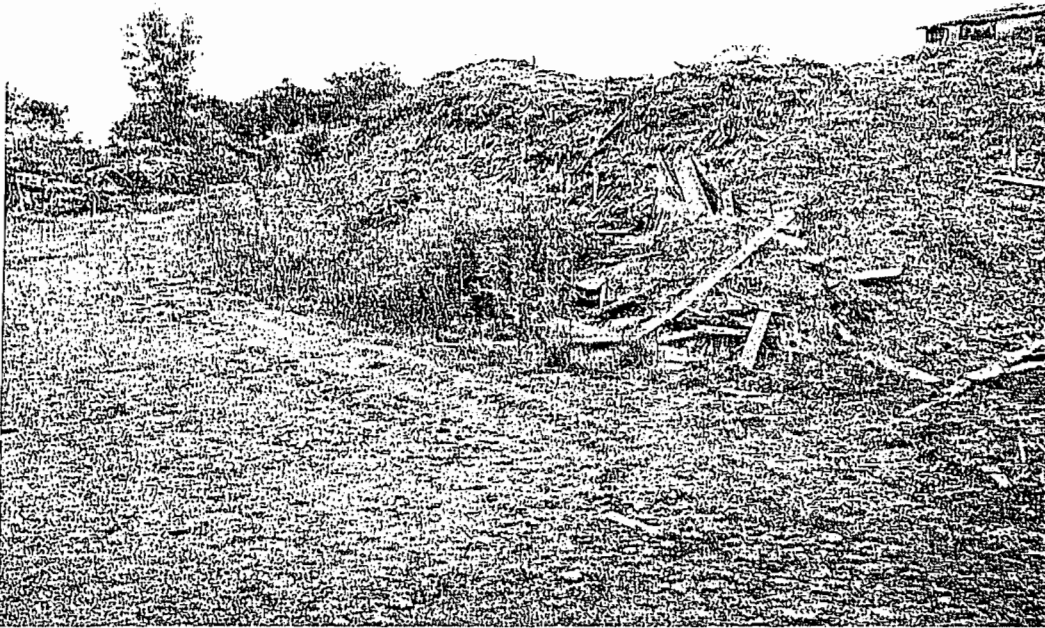
Site Sketch



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 07202010-[Exp. #].jpg

Date: July 20, 2010
Time: 11:24-11:30 a.m.
Direction: West
Photo by: Mike Mullins
Exposure #: 001
Comments:



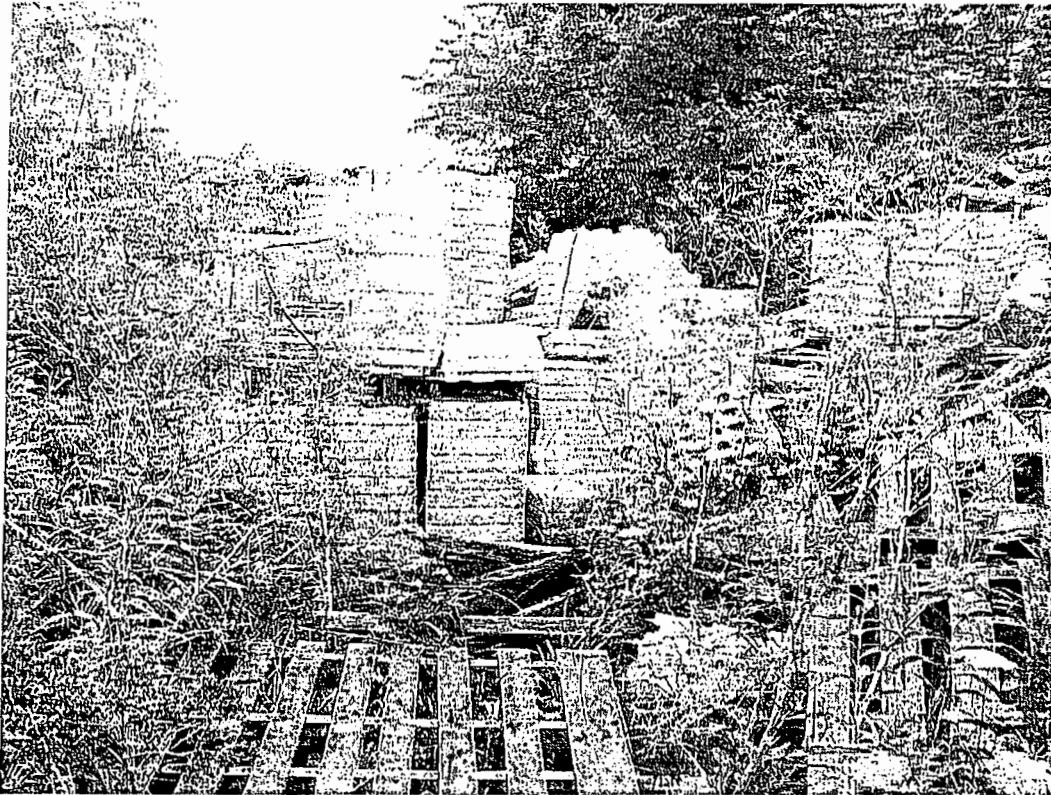
Date: July 20, 2010
Time: 11:24-11:30 a.m.
Direction: East
Photo by: Mike Mullins
Exposure #: 002
Comments:





DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 07202010-[Exp. #].jpg



Date: July 20, 2010
Time: 11:24-11:30 a.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 003
Comments:

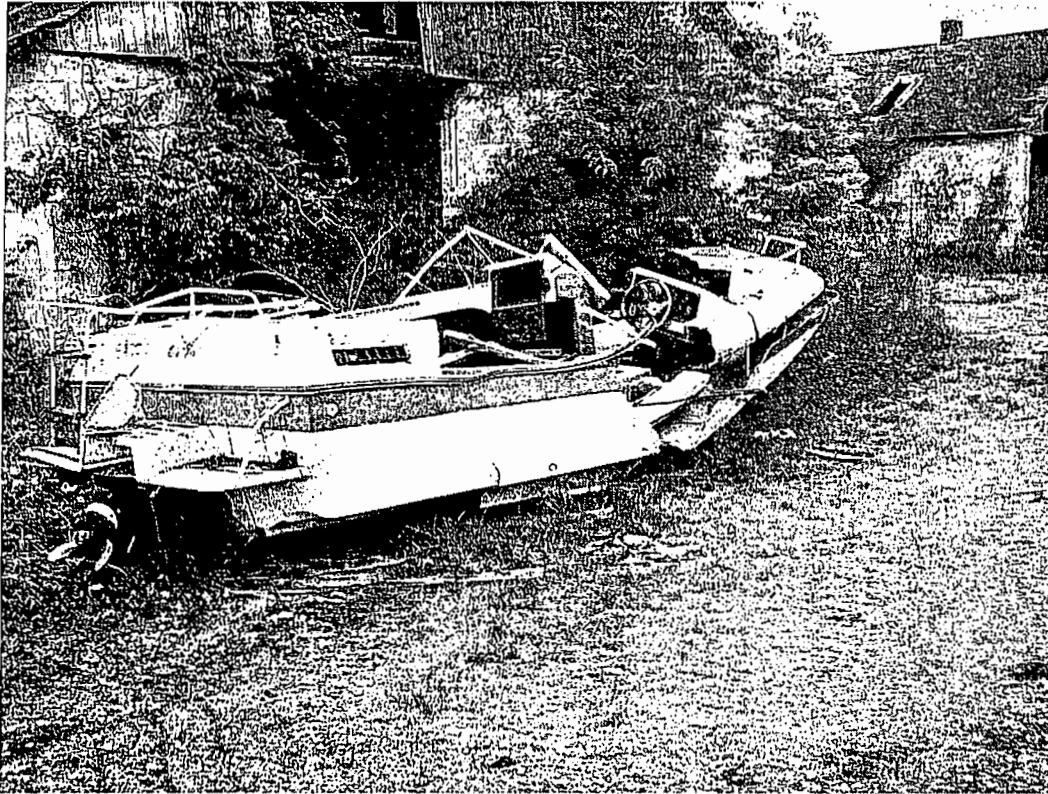


Date: July 20, 2010
Time: 11:24-11:30 a.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 004
Comments:



DIGITAL PHOTOGRAPHS

File Names: 1830455031 ~ 07202010-[Exp. #].jpg



Date: July 20, 2010
Time: 11:24-11:30 a.m.
Direction: North
Photo by: Mike Mullins
Exposure #: 005
Comments:

Date:
Time:
Direction:
Photo by: Mike Mullins
Exposure #: 006
Comments:

MEMORANDUM

DATE: March 23, 2011
TO: Bureau of Land Files
FROM: Mike Mullins, Environmental Protection Specialist, Champaign BOL
SUBJECT: 1830455031—Vermilion County
Hoopeston/MAB Pallets, LLC
FOS File

GIS Data: Latitude-N 40.45916^o, Longitude-W087.67311^o (Magellan Meridian Platinum) +/- 40'

On Wednesday, March 23, 2011, I went to MAB Pallets, Inc. in Hoopeston Illinois to look at site's current conditions.

Upon arrival at approximately 10:30 a.m., I observed that wastes observed during the previous inspections in 2010 had been removed. Remaining on site were several piles of wood chips/shredded wood, several metal drums (may be considered a recyclable item) and some foam/plastic packing materials.

I started my walk around the site on the north side, walked east, south, west, then north and back to my vehicle. Several piles of wood chips were observed along the east and northeast portions of the site. I did not observe any wooden pallets remaining on site. Apparently a wood grinding company came to the site during the Fall of 2010 and chipped the wood. Some of the wood wastes were removed at the time of chipping and some of the wood chips remained on site (photos 1,2). Some of the shredded wood was clean and without litter (photo 3). Other piles of shredded wood was mixed with litter that included foam and plastics (photo 4).

Many of the steel drums remained on site and were piled in the same area as previously observed (photo 5). I also observed that many of the concrete block buildings that had previously been on site had been removed and the debris from the buildings was not observed.

The Agency's violations were centered around the huge volume of waste wood that accumulated on this property. The wood in the form of broken and stained pallets made up the bulk of the waste wood. The pallets have been processed within the previous year and some of the wood wastes have been removed.

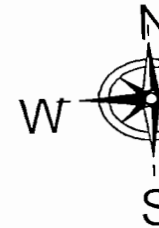
I left the site at 11:00 a.m.

Cc: Champaign Regional File



Illinois Environmental Protection Agency

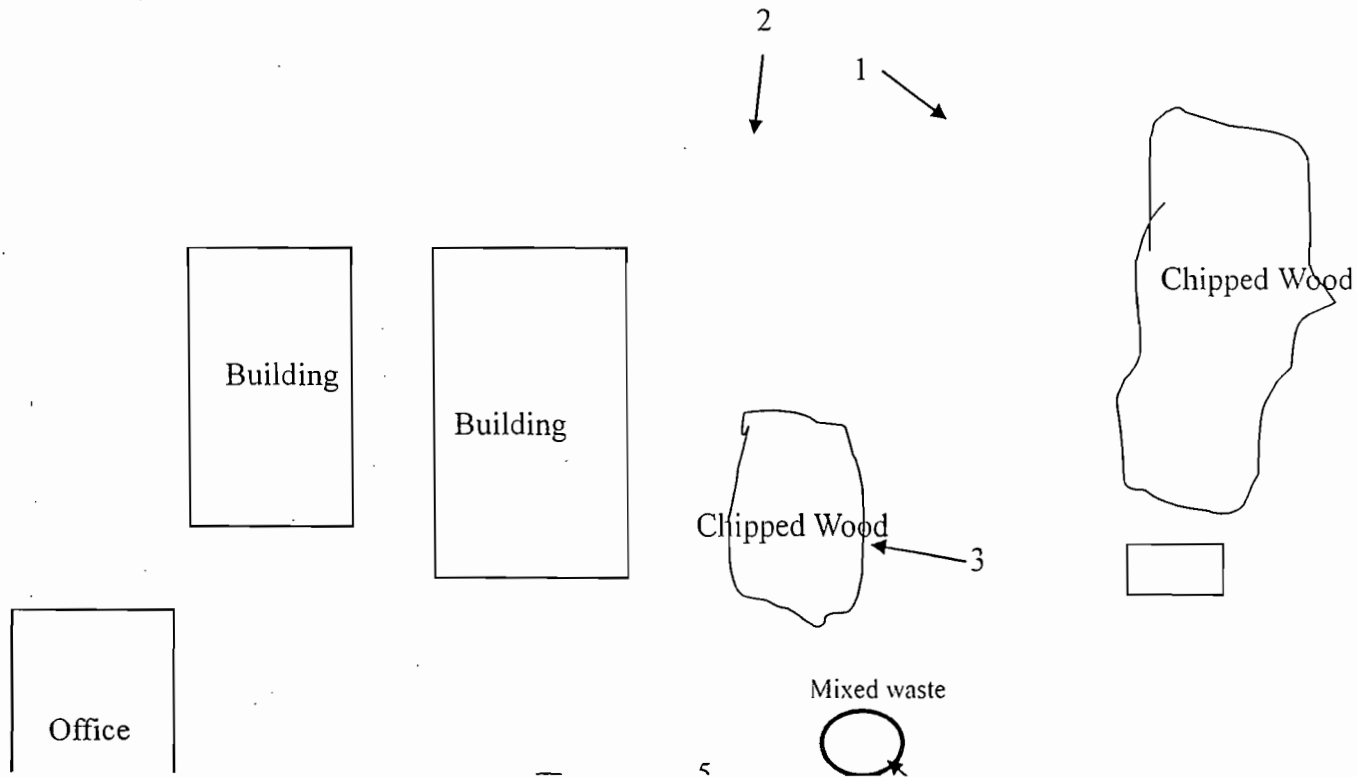
Bureau of Land ♦ Field Operations Section ♦ Champaign Region



5031 – Vermilion County
Company/MAB Pallets, LLC.

Prepared by: Mike Mullins
Date: March 23, 2011

Illinois Route 9





DIGITAL PHOTOGRAPHS File Names: 1830455031 ~ 03232011-[Exp. #].jpg



Date: March 23, 2011
Time: 10:30-11:00 a.m.
Direction: Southeast
Photo by: Mike Mullins
Exposure #: 001
Comments:



Date: March 23, 2011
Time: 10:30-11:00 a.m.
Direction: South
Photo by: Mike Mullins
Exposure #: 002
Comments:



DIGITAL PHOTOGRAPHS File Names: 1830455031 ~ 03232011-[Exp. #].jpg



Date: March 23, 2011
Time: 10:30-11:00 a.m.
Direction: West
Photo by: Mike Mullins
Exposure #: 003
Comments:



Date: March 23, 2011
Time: 10:30-11:00 a.m.
Direction: West
Photo by: Mike Mullins
Exposure #: 004
Comments:



DIGITAL PHOTOGRAPHS File Names: 1830455031 ~ 03232011-[Exp. #].jpg



Date: March 23, 2011
Time: 10:30-11:00 a.m.
Direction: Southwest
Photo by: Mike Mullins
Exposure #: 005
Comments:

Date:
Time:
Direction:
Photo by: Mike Mullins
Exposure #: 006
Comments: