

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF JACKSON,)
)
Complainant,)
)
v.)
)
DAN KIMMEL,)
)
Respondent.)

AC 09 - 08

RECEIVED
CLERK'S OFFICE
JUL 30 2008
STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Dan Kimmel, 1065 Dumaroc Road, DeSoto, Illinois 62924

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.



Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, 3rd Floor
Murphysboro, IL 62966
618-687-7200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.)
)
 DAN KIMMEL,)
)
 Respondent.)

AC 09 - 08

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Pollution Control Board

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of Jackson.



Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, 3rd Floor
Murphysboro, IL 62966
618-687-7200

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF JACKSON,)
)
 Complainant,)
)
 v.)
)
 DAN KIMMEL,)
)
 Respondent.)

Site 0778035009

AC 09 - 08

RECEIVED
CLERK'S OFFICE

JUL 30 2008

STATE OF ILLINOIS
Pollution Control Board

Serve on: Dan Kimmel, 1065 Dumaroc Road, DeSoto, Illinois 62924

PROOF OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the Administrative

Citation and Appearance were hand delivered to:

Name: Dan Kimmel

Address: 1001 Mulberry, M'Bar, Ill.

Sex: Male Female

Age: 5/29/53

Date of service: 7-25, 2008.

Time: 3:15 p.m.

Marista Sigaud

/S/ Robert Burns, Jackson Co. Sheriff

By his Deputy

PLEASE RETURN TO:

DANIEL BRENNER
JACKSON COUNTY STATE'S ATTORNEY'S OFFICE

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION**

COUNTY OF JACKSON,)
)
 Complainant,)
)
v.)
)
DAN KIMMEL,)
)
 Respondent.)

AC 09 - 08
Site Code: 0778035009

RECEIVED
CLERK'S OFFICE
JUL 30 2008
STATE OF ILLINOIS
Pollution Control Board

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (2006), specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Dan Kimmel, is the present owner and occupant and in control and possession of a facility located in the County of Jackson, State of Illinois.
2. The facility is an open dump, operating without an Illinois Environmental Protection Agency Operating Permit, and designated with the Site Code # 0778035009. The facility is known to the Agency as the DeSoto/Dan Kimmel site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On July 8, 2008, Don Terry, Field Inspector, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's affidavit, are attached and incorporated herein by reference as Exhibit A.

5. The Respondent had been previously found to have violated §21(p)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/21(p)(1)(2006) at this site on November 6, 2006 in AC 06-21.

VIOLATIONS

On the basis of Field Inspector, Don Terry's, direct observation, he has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on July 8, 2008, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

2. The Respondent has caused or allowed the deposition of general construction or demolition debris; or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2006), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for the §21(p)(7) violation and Three Thousand Dollars (\$3,000.00) for the §21(p)(1) violation because the latter is a second violation for the same offense, for a total of Four Thousand Five Hundred Dollars (\$4,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 1, 2008, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2006),

and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the civil penalty fine stated above.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2006), if Respondent fails to petition or elect not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) County of Jackson, c/o Jackson County Treasurer, Jackson County Courthouse, Murphysboro, Illinois 62966; and

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Complainant may either initiate proceedings against

Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING ADMINISTRATIVE CITATION

You have the right to contest this Citation, pursuant to 415 ILCS 5/31.1. If you elect to contest this Citation, you must file a Petition For Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition For Review shall be filed with Daniel Brenner, Assistant State's Attorney, Jackson County Courthouse, Third Floor, Murphysboro, Il 62966. **YOUR PETITION FOR REVIEW MUST BE FILED WITHIN 35 DAYS OF THE DATE OF SERVICE OF THE PRESENT CITATION ON YOU. IF YOU FAIL TO FILE YOUR PETITION, A DEFAULT ORDER AGAINST YOU WILL BE ENTERED BY THE POLLUTION CONTROL BOARD.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk
Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

A copy must also be sent to:

Office of the State's Attorney
Daniel Brenner
Assistant State's Attorney
Jackson County Courthouse, 3rd Floor
Murphysboro, Il 62966

DATED: July 16, 2008


Daniel Brenner
Assistant State's Attorney

JACKSON COUNTY HEALTH DEPARTMENT

AFFIDAVIT

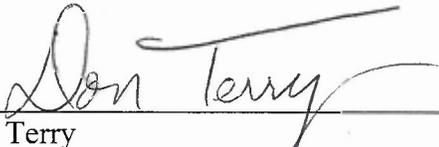
IN THE MATTER OF:

077 803 5009 / Jackson County
De Soto / Dan Kimmel
COMPLIANCE FILE

Dan Kimmel
Respondent.

Affiant, Don Terry, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by Jackson County Health Department and has been so employed at all times pertinent hereto.
2. On July 8, 2008, between the hours of 1:52 p.m. and 2:20 p.m., Affiant conducted an inspection of the open dump site known as De Soto / Dan Kimmel, Jackson County, Illinois.
3. Affiant inspected said open dump site by an on-site inspection.
4. As a result of the activities referred to in Paragraphs 2 and 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of Affiant's observations and factual conclusions with respect to said Dan Kimmel, De Soto, Illinois, open dump site.



Don Terry
Environmental Compliance Inspector

Subscribed and Sworn To before me
this 9 day of July, 2008



Notary Public



EXHIBIT

A

LPC # 077 803 5009

Inspection Date: 07/08/2008

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:	807.201 Developmental Permit & 807.202 Operational Permit	<input checked="" 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.

Inspection Report Document: Open Dump Site Narrative

Date of Inspection: July 8, 2008

Inspector: Don Terry

Site Code: 077 803 5009

County: Jackson

Site Name: De Soto / Dan Kimmel

Time: 1:52 p.m. – 2:20 p.m.

Location: Lat 37.82701 Long -89.24971

GPS Accuracy: +/- 50 feet

Estimated Volume of Waste at Site: 645 cubic yards

GENERAL REMARKS

During the stated date and time, I conducted an inspection of the site listed above. This inspection was made as a follow up to an inspection conducted on December 7, 2005 during which open dumping violations were observed. Weather conditions at the time of the inspection were: partly cloudy skies with moderate winds and a temperature of approximately 90°F. I was accompanied on this inspection by Bart Hagston of the Jackson County Health Department.

According to the Jackson County Assessor's Office, the site is owned by Dan Kimmel.

Prior to the inspection, I had arranged to meet Mr. Kimmel at the site at 2:00 p.m. Upon arrival, I observed Mr. Kimmel and two other adult males working on a piece of equipment. Mr. Kimmel joined me and I began the inspection.

I walked north along a mowed path west of the residence (**Site Sketch Area A**). In this area I observed open dumped waste (**Photos #1 - #11, Site Sketch Area A**). The waste in this area included, but was not limited to: metal barrels, dimensional lumber, parts of a fiberglass garage door, abandoned vehicles, pickup truck bed tops, an abandoned camper, scrap metal, a truck trailer with part of its side missing, a mobile home lying on its side and other items too numerous to list (**Photos #1 - #11, Site Sketch Area A**).

I walked east to a location marked "B" on the site sketch. In this area I observed more open dumped waste scattered about (**Photos #12 - #20, Site Sketch Area B**). In this area, I observed open dumped waste that included, but was not limited to: scrap metal, abandoned vehicles (a car and a school bus), vehicle parts, plumbing fixtures, metal shelving, furniture, PVC pipe, plastic items, metal gas cylinders, a truck trailer open at both ends and other materials too numerous to list (**Photos #12 - #20, Site Sketch Area B**).

I then walked to a location on the site marked "C" on the site sketch. In this area I observed open dumped waste scattered about. The waste I observed in this area included, but was not limited to: metal gas cylinders, plastic items, scrap metal, plywood, dimensional lumber, glass windows and other items too numerous to list (**Photos #21 - #25, Site Sketch Area C**).

At the time of the inspection, the items observed at the site were not in use and were not stored in such a way as to protect any future use. The items observed were also stored in an unsightly manner and were generally over grown with vegetation which would seem to indicate that the materials had not been used at least during this current growing season (**Photos #1 - #25, Site Sketch Areas A, B & C**).

The total volume of waste observed was approximately 645 cubic yards.

My inspection ended at approximately 2:20 p.m.

Violations Observed:

Item #5(21)(a): Cause or allow open dumping; Item #8(21)(p)(1 and 7): 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 and (7) Deposition of general construction or demolition debris; or clean construction or demolition debris: During the inspection, the open dumping of waste that resulted in litter and the deposition of general construction or demolition debris was observed.

Item #6(21)(d)(1): Conduct any waste-storage, waste-treatment, or waste-disposal operation: Without a permit: At the time of the inspection, this office had not received from the Illinois Environmental Protection Agency (IEPA), documentation that the site owner had obtained a permit to conduct a waste-storage, waste-treatment or waste-disposal operation.

Item #6(21)(d)(2): Conduct any waste-storage, waste-treatment, or waste-disposal operation: In violation of any regulations or standards adopted by the Board: During the inspection violations of regulations or standards adopted by the Board regarding litter control and daily cover were observed.

Item #7(21)(e): Dispose, treat, store, or abandon any waste, or transport any waste into the State at/to sites not meeting requirements of the Act: At the time of the inspection, this site did not meet the requirements of the Act for landfills. Also, during the inspection waste that had been disposed of at this site was observed.

Item #10(812.101)(a): Failure to submit an application for a permit to develop and operate a landfill: At the time of the inspection, this office had not received documentation from IEPA that the site owner had submitted an application for a permit to develop and operate a landfill.

Page 3
077 803 5009
De Soto / Dan Kimmel
July 8, 2008

Item #15(807.201): Failure to obtain a Developmental Permit to operate a solid waste management site: At the time of the inspection, this office had not received documentation from IEPA that the site owner had obtained a Developmental Permit to operate a solid waste management site.

Item #15(807.202): Failure to obtain an Operational Permit to operate a solid waste management site: At the time of the inspection, this office had not received documentation from IEPA that the site owner had obtained an Operational Permit to operate a solid waste management site.

OPEN DUMP INSPECTION SITE SKETCH

Date Of Inspection: July 8, 2008

Inspector: Don Terry

Site Code: 077 803 5009

County: Jackson

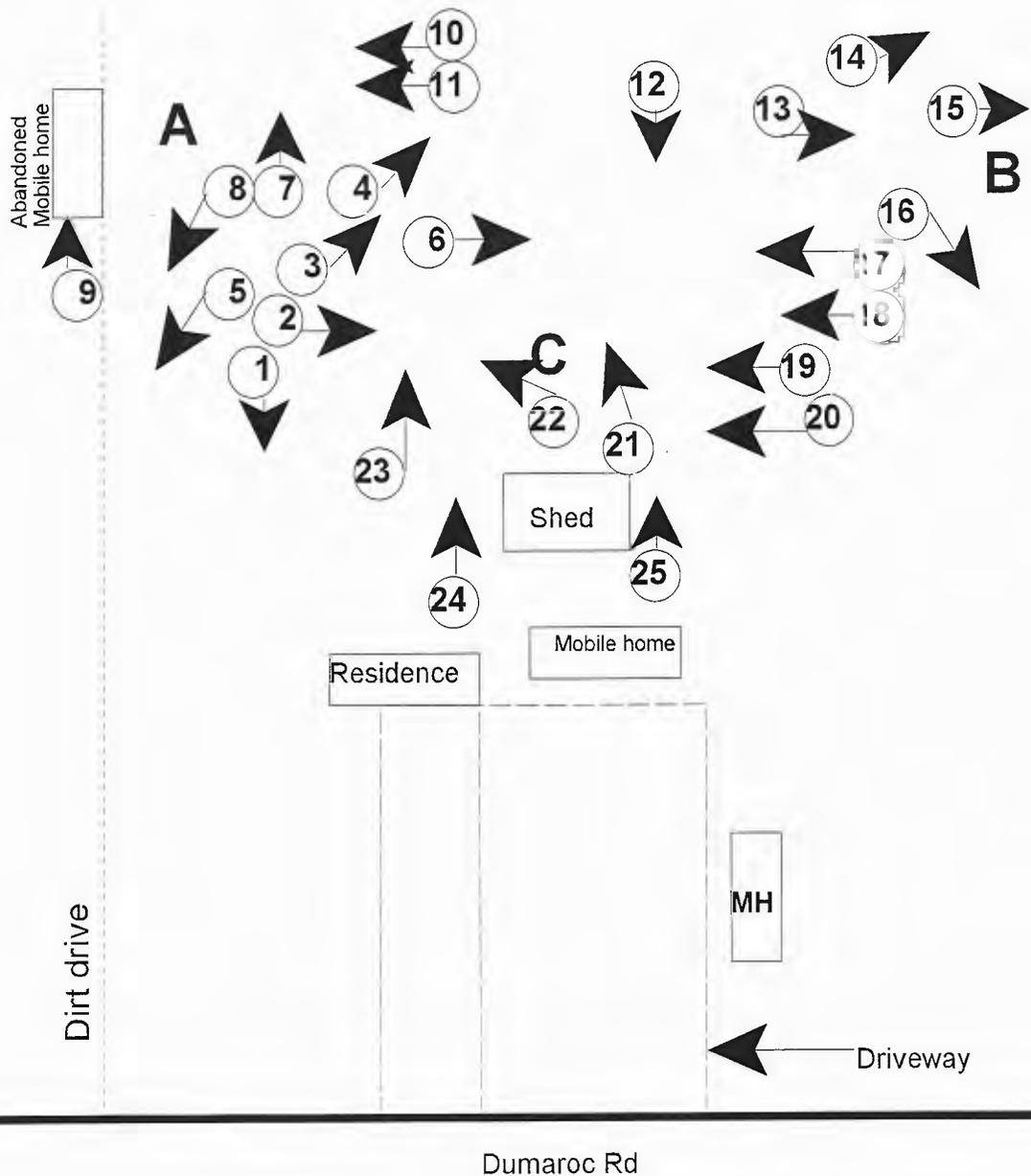
Site Name: DeSoto / Danny Kimmel

Time: 1:52 p.m. - 2:20 p.m.

Not Drawn to Scale

All Locations Are Approximate

○➔ Indicates *Approximate* Location & Direction of Photos





Jackson County Inspection Digital Photo Sheet – Page 1

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-01

Time: 1:59 p.m.

Photo Taken Toward:

South



Photo Name:
0778035009-07082008-02

Time: 2:00 p.m.

Photo Taken Toward:

East





Jackson County Inspection Digital Photo Sheet – Page 2

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-03

Time: 2:00 p.m.

Photo Taken Toward:
Northeast



Photo Name:
0778035009-07082008-04

Time: 2:00 p.m.

Photo Taken Toward:
Northeast





Jackson County Inspection Digital Photo Sheet – Page 3

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-05

Time: 2:00 p.m.

Photo Taken Toward:
Southwest



Photo Name:
0778035009-07082008-06

Time: 2:01 p.m.

Photo Taken Toward:
East





Jackson County Inspection Digital Photo Sheet – Page 4

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-07

Time: 2:01 p.m.

Photo Taken Toward:

North



Photo Name:
0778035009-07082008-08

Time: 2:02 p.m.

Photo Taken Toward:

Southwest





Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-09

Time: 2:03 p.m.

Photo Taken Toward:
North



Photo Name:
0778035009-07082008-10

Time: 2:04 p.m.

Photo Taken Toward:
Northwest





Jackson County Inspection Digital Photo Sheet – Page 6

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-11

Time: 2:05 p.m.

Photo Taken Toward:

West



Photo Name:
0778035009-07082008-12

Time: 2:05 p.m.

Photo Taken Toward:

South





Jackson County Inspection Digital Photo Sheet – Page 7

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-13

Time: 2:05 p.m.

Photo Taken Toward:

East



Photo Name:
0778035009-07082008-14

Time: 2:06 p.m.

Photo Taken Toward:

Northeast





Jackson County Inspection Digital Photo Sheet – Page 8

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-15

Time: 2:06 p.m.

Photo Taken Toward:

East



Photo Name:
0778035009-07082008-16

Time: 2:06 p.m.

Photo Taken Toward:

Southeast





Jackson County Inspection Digital Photo Sheet – Page 9

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-17

Time: 2:07 p.m.

Photo Taken Toward:

West



Photo Name:
0778035009-07082008-18

Time: 2:07 p.m.

Photo Taken Toward:

West





Jackson County Inspection Digital Photo Sheet – Page 10

Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-19

Time: 2:08 p.m.

Photo Taken Toward:

West



Photo Name:
0778035009-07082008-20

Time: 2:08 p.m.

Photo Taken Toward:

West





Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-21

Time: 2:09 p.m.

Photo Taken Toward:
Northwest



Photo Name:
0778035009-07082008-22

Time: 2:09 p.m.

Photo Taken Toward:
Northwest





Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-23

Time: 2:10 p.m.

Photo Taken Toward:

North



Photo Name:
0778035009-07082008-24

Time: 2:11 p.m.

Photo Taken Toward:

North





Date of Inspection: July 8, 2008
Photos by: Don Terry

Site #: 077 803 5009
Site Name: De Soto / Dan Kimmel

Photo Name:
0778035009-07082008-25

Time: 2:11 p.m.

Photo Taken Toward:

North

