

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

|                                |   |                        |
|--------------------------------|---|------------------------|
| COUNTY OF VERMILION, ILLINOIS, | ) | Case No.: AC:          |
|                                | ) | County File No.: 14-01 |
| Complainant,                   | ) |                        |
| vs.                            | ) |                        |
| Jerry Nuss,                    | ) |                        |
| Respondent                     | ) |                        |

**JURISDICTION**

The Administrative Citation is issued pursuant to the statutory authority vested in the Illinois Environmental Protection Agency by section 4(e) and 31.1 of the Illinois Environmental Protection Act ("act") 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County Pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

**FACTS**

1. That Respondent, Jerry Nuss, is, and was at all times relevant to this Administrative Citation, the owner of property located at the area of 34336 North 1700 East Road, in east rural Rossville, more particularly Latitude 40.373, Longitude -87.628.
2. That said property is land which is not permitted as a sanitary landfill or dump area.
3. That on 07/24/2014 Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of his inspection report are attached hereto and incorporated herein by reference.

**VIOLATIONS**

1. On the basis of direct observations personally made by Douglas Toole, the County of Vermilion has determined that on 07/24/2014:
  - A. The Respondent was allowing the open dumping of waste which resulted in litter in violation of Section 21(p) (1).
  - B. The Respondent caused or allowed the open dumping of any waste which results in the deposition of general construction or demolition debris and clean construction and demolition debris in violation of Section 21(p)(7).

**CIVIL PENALTY**

Pursuant to Section 42(b) (4) of the Act, 415 ILCS 5/42(b)(4), Respondent herein is subject to a civil penalty of \$1,500.00 for each violation of each provision under subsection p of Section 21, plus any hearing costs incurred by the Board should the Respondent elect to petition the Illinois Pollution Control Board under the review process described herein below.

**PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION**

You have the right to contest this Administrative Citation under Section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a petition for Review with the Clerk of the Illinois Pollution Control, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed with thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment will be issued by the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Vermilion County State's Attorney's Office, Courthouse, 2<sup>nd</sup> Floor, 7 N Vermilion Street, Danville, Illinois, 61832.

If you acknowledge the violation herein, the civil penalty specified above shall be due and payable no later than September 30, 2014. If you do not petition the Illinois Pollution Control Board for review of the Administrative Citation within thirty-five (35) days of the service hereof and have not paid the civil penalty by the due date stated above, or if you elect to contest this Administrative Citation, any judgment rendered shall specify the due date of the statutory civil penalty and any costs assessed against you. When payment is made, your check should be made payable to the County of Vermilion, Illinois and mailed to the Vermilion County Health Department, 200 South College Street, Danville, Illinois, 61832, together with a completed copy of the remittance form attached hereto.

If any civil penalty, by reason of acknowledgment, default or finding after hearing, is not paid when due, the Vermilion County State's Attorney may initiate proceedings in the Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty and any hearing costs of the Illinois Pollution Control Board, the State's Attorney's Office will seek to recover its costs of litigation

Dated this August 6, 2014

Randall J. Brinegar  
State's Attorney for Vermilion  
County, Illinois

By:   
William T. Donahue  
Assistant State's Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AFFIDAVIT

|                  |   |                       |
|------------------|---|-----------------------|
| IN THE MATTER OF | ) | AC No. _____          |
| Jerry Nuss       | ) | County File No. 14-01 |
|                  | ) |                       |
| Respondent.      | ) |                       |

The Affiant, Douglas Toole, being first duly sworn, voluntarily deposes and states as follows upon personal knowledge:

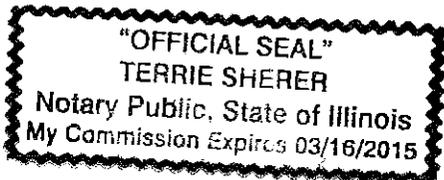
1. Affiant is a field inspector employed by the Vermilion County Health Department and has been so employed at all times pertinent hereto.
2. On July 24, 2014 between 2:30 p.m. and 2:35 p.m., your Affiant conducted an inspection of land within the County of Vermilion, State of Illinois, known as property of Jerry Nuss , Latitude 40.373 Longitude - 87.628
3. Affiant inspected the land by an on-site inspection which included walking on the site and personally viewing the violations and measuring the amount of waste as set out in the inspection checklist as attached.
4. As a result of the activities referred to in paragraphs 2, 3 and above, Affiant completed the Solid Waste Landfill Inspection Checklist, with the enclosed Inspection Report Narrative, Site Sketch and photographs, 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 the land of Jerry Nuss on July 24, 2014.

FURTHER Affiant sayeth not.

*Douglas Toole*  
 \_\_\_\_\_  
 Douglas Toole

SIGNED and SWORN to before me this 8<sup>th</sup> day of August, 2014 by Douglas Toole.

*Terrie Sherer*  
 \_\_\_\_\_  
 NOTARY PUBLIC



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

County: Vermilion      LPC#: 1838155005      Region: 4 - Champaign  
 Location/Site Name: Ross Twp. / Nuss  
 Date: 07/24/2014    Time: From 2:30 p.m. To 2:35 p.m.    Previous Inspection Date: 04/11/2014  
 Inspector(s): Douglas Toole      Weather: cloudy, dry, breezy, 75 F  
 No. of Photos Taken: # 04    Est. Amt. of Waste: 80 yds<sup>3</sup>    Samples Taken: Yes # \_\_\_\_\_ No   
 Interviewed: \_\_\_\_\_      Complaint #: \_\_\_\_\_  
 Latitude: 40.373      Longitude: -87.628      Collection Point Description: -  
 (Example: Lat: 41.26493      Long.: -89.38294)      Collection Method: -

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

|  |  |
|--|--|
| Jerry Nuss<br>702 East Maple Street<br>Hoopeston, IL 60942 |  |
|--|--|

|   | SECTION | DESCRIPTION  | VIOL                                |
|---|---------|--|-------------------------------------|
| <b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b> |         |  |                                     |
| 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 checked="" type="checkbox"/> |
|   | (2)     | In Violation of Any Regulations or Standards Adopted by the Board  | <input checked="" type="checkbox"/> |
| 7.  | 21(e)   | DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT | <input checked="" type="checkbox"/> |
| 8.  | 21(p)   | CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:   |                                     |
|   | (1)     | Litter   | <input checked="" type="checkbox"/> |
|   | (2)     | Scavenging   | <input type="checkbox"/>            |
|   | (3)     | Open Burning   | <input type="checkbox"/>            |
|   | (4)     | Deposition of Waste in Standing or Flowing Waters  | <input type="checkbox"/>            |
|   | (5)     | Proliferation of Disease Vectors   | <input type="checkbox"/>            |
|   | (6)     | Standing or Flowing Liquid Discharge from the Dump Site  | <input type="checkbox"/>            |

LPC # 1838155005

Inspection Date: 07/22/2014

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



PUBLIC HEALTH IS PRICELESS

## VERMILION COUNTY HEALTH DEPARTMENT

JENNIFER TRIMMELL, RN, BSN  
PUBLIC HEALTH ADMINISTRATOR

HEALTH AND EDUCATION BUILDING  
200 SOUTH COLLEGE, SUITE A  
DANVILLE, IL 61832  
PHONE/TDD 217 431-2662  
FAX 217 431-7483  
www.vchd.org

LPC #1838150005  
Ross Twp. / Nuss  
FOS  
07/24/2014

### OPEN DUMP INSPECTION NARRATIVE

This unpermitted open dump was reinspected on July 24, 2014, by Douglas Toole of the Vermilion County Health Department. The weather was cloudy, dry, breezy and about 75 degrees Fahrenheit. Four photos were taken of the site.

The site is located in Vermilion County, at 34336 North 1700 East Road in rural Rossville, Illinois.

### INSPECTORS FINDINGS

I arrived at the site to perform a reinspection at 2:30 p.m. on July 24, 2014. No one accompanied me during the inspection.

In general, there did not appear to be a significant amount of cleanup at the site since my April 11, 2014 initial inspection.

Around the brick chimney, porch and foundation of a house, I could see tires, demolition debris and other refuse on the property (photos 1-3). On the north side of the property, I observed tires, demolition debris and other refuse (photo 4).

There was no evidence of recent waste-burning at the site. I left the site at about 2:35 p.m.

On the Inspection Report Checklist for this reinspection, I estimated that there were 80 cubic yards of waste on the site. No measurements were performed to arrive at that estimation, only my observations at the time. The actual amount of waste on the site may vary significantly from that estimation.



LPC #1838150005

Ross Twp. / Nuss

07/24/14

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## SUMMARY OF APPARENT VIOLATIONS

### ILLINOIS ENVIRONMENTAL PROTECTION ACT (415 ILCS 5/1 et seq.)

Section 21 (a) of the Act: No person shall ... cause or allow the open dumping of any waste. The open dumping was observed on the site.

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. No Agency permit to conduct a waste storage, waste-treatment, or waste-disposal operation for the site was issued.

Section 21 (d)(2) of the Act: No person shall ... conduct any waste-storage, waste-treatment, or waste disposal operation ... in violation of any regulations or standards adopted by the Board under the Act. Violations of the Illinois Pollution Control Board Regulations were observed at the site where waste storage, waste-treatment, or waste-disposal operations were taking place.

Section 21(e) of the Act: No person shall ... dispose, treat, store or abandon any waste ... except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder. The storage and disposal of waste was occurring at a site which did not meet the requirements of the Illinois Environmental Protection Act and the Illinois Pollution Control Board Regulations.

Section 21 (p)(1) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... litter. Open dumping of waste resulting in litter was observed at the site.

Section 21 (p)(7) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... the deposition of general construction or demolition debris; or clean construction or demolition debris. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site.

Section 55 (a) of the Act: No person shall ... cause or allow the open dumping of any used or waste tire. Open dumping of waste tires was observed at the site.

LPC #1838150005

Ross Twp. / Nuss

07/24/14

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ILLINOIS POLLUTION CONTROL BOARD; 35 ILLINOIS ADMINISTRATIVE CODE,  
SUBTITLE G  
(REGULATIONS)

Section 812.101 of the Regulations: ... All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) [415 ILCS 5/21(d)], shall submit to the Agency an application for a permit to develop and operate a landfill. The application must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817. No such application for a permit to develop and operate a landfill was submitted.



## DIGITAL PHOTOGRAPHS

File Name: Ross Twp. / Nuss



Date: 07/24/2014  
Time: 2:32 p.m.  
Direction: NW  
Photo by: Doug Toole  
Exposure #: 01  
Comments:

South part of site



Date: 07/24/2014  
Time: 2:33 p.m.  
Direction: W  
Photo by: Doug Toole  
Exposure #: 02  
Comments:

Same area  
from photo #1



## DIGITAL PHOTOGRAPHS

File Name: Ross Twp. / Nuss



Date: 07/24/2014  
Time: 2:33 p.m.  
Direction: SW  
Photo by: Doug Toole  
Exposure #: 03  
Comments:

Closer shot of area  
from photo #2

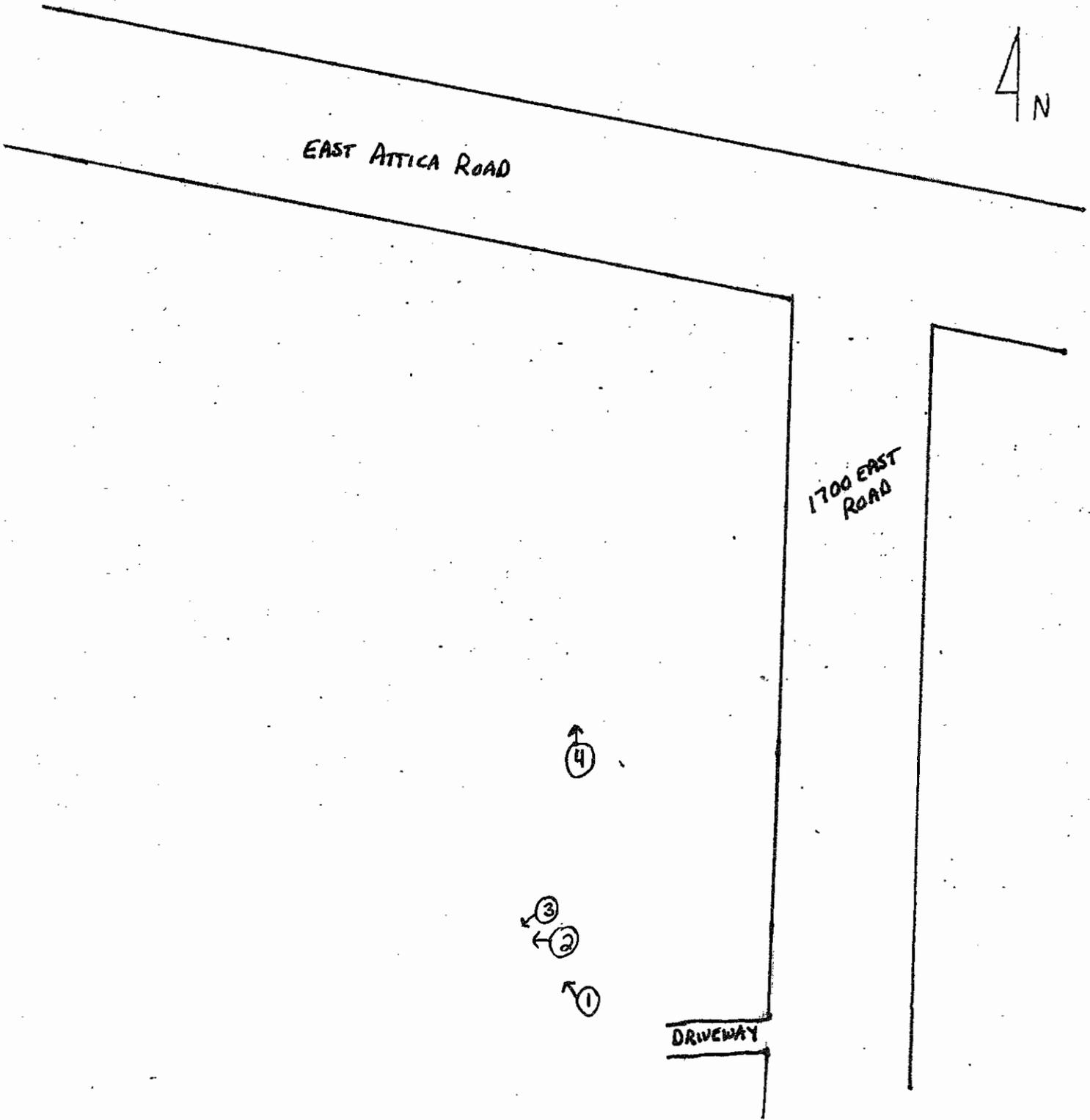


Date: 07/24/2014  
Time: 2:34 p.m.  
Direction: N  
Photo by: Doug Toole  
Exposure #: 04  
Comments:

North part of site

SITE SKETCH

Date of Inspection: JULY 24, 2014 Inspector: DOUGLAS TOOLE  
Site Code: 1838150005 County: VERMILION  
Site Name: ROSS TWP. / NUSS Time: 2:30 - 2:35 P.M.



**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jerry Nuss  
 702 East Maple Street  
 Hoopeston, IL 60942

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 *Jerry Nuss*  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery  
*Jerry Nuss* *8-11-14*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Transfer from service label) *7007 2680 0002-1787 1055*  
 PS Form 3814, February 2004 Domestic Return Receipt 102595-02-M-1540

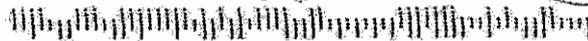
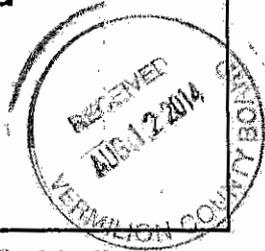
UNITED STATES POSTAL SERVICE



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Vermilion County Board  
6 N. Vermilion  
Danville, IL 61832



**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the Administrative Citation was served upon:

Jerry Nuss, 702 East Maple Street, Hoopston, IL. 60942

By certified mail, return receipt, as shown by the attached signed receipt form the U.S. Post Office showing delivery on August 11, 2014.

Vermilion County State's Attorney Office

By:   
William T. Donahue *Att*