

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

OCT 08 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

LUTHER COLEMAN,

Respondent.

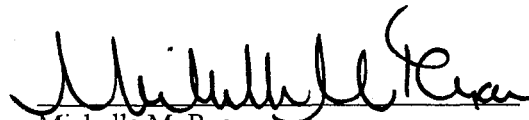
AC 04-18
(IEPA No. 514-03-AC)

NOTICE OF FILING

To: Luther Coleman
624 W. Logan
Harrisburg, Illinois 62946

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,


Michelle M. Ryan
Special Assistant Attorney General

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

Dated: October 6, 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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ADMINISTRATIVE CITATION

OCT 08 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
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Complainant,)
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v.)
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LUTHER COLEMAN,)
))
Respondent.)

AC 0418

(IEPA No. 514-03-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2002).

FACTS

1. That Luther Coleman ("Respondent") is the present owner and operator of a facility located at 624 W. Logan, Harrisburg, Saline County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Harrisburg/Coleman, Luther.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1650205053.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on September 10, 2003, Kent Johnson of the Illinois Environmental Protection Agency's Marion Regional Office inspected the above-described facility. A copy of his inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Kent Johnson during the course of his September 10, 2003 inspection of the above-named facility, the Illinois Environmental Protection Agency has

determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than November 30, 2003, 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 (2002), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2002), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.

Renee Cipriano
Renee Cipriano, Director
Illinois Environmental Protection Agency

Date: 10/6/03

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,)

Complainant,)

v.)

LUTHER COLEMAN,)

Respondent.)

AC

(IEPA No. 514-03-AC)

FACILITY: Harrisburg/Coleman, Luther

SITE CODE NO.: 1650205053

COUNTY: Saline

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: September 10, 2003

DATE REMITTED:

SS/FEIN NUMBER:

SIGNATURE:

NOTE

Please enter the date of your remittance, your Social Security number (SS) if an individual or Federal Employer Identification Number (FEIN) if a corporation, and sign this Remittance Form. Be sure your check is enclosed and mail, along with Remittance Form, to Illinois Environmental Protection Agency, Attn.: Fiscal Services, P.O. Box 19276, Springfield, Illinois 62794-9276.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)

Complainant,)

v.)

LUTHER COLEMAN)

Respondent.)

IEPA DOCKET NO.

AFFIDAVIT

Affiant, Kent Johnson, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.

2. On September 10, 2003, between 8:52 A.M. and 9:13 A.M., Affiant conducted an inspection of a disposal site operated without an Agency permit, located in Saline County, Illinois, and known as the Luther Coleman site by the Illinois Environmental Protection Agency. Said site has assigned site code number 1650205053.

3. Affiant inspected said Luther Coleman site by an on-site inspection which included walking and photographing the site.

4. As a result of the material actions referred to in Paragraph 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 Luther Coleman site.

Kent R. Johnson

Subscribed and Sworn to before me
this 19th day of September, 2003.

Ronald E. Morse
Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Saline LPC#: 1650205053 Region: 7 - Marion
 Location/Site Name: Harrisburg/Coleman, Luther
 Date: 09/10/2003 Time: From 8:52 AM To 9:13 AM Previous Inspection Date: 08/22/2003
 Inspector(s): K. Johnson Weather: Clear, warm, calm, dry soil
 No. of Photos Taken: # 6 Est. Amt. of Waste: ~ 30 yds³ Samples Taken: Yes # _____ No
 Interviewed: Luther Coleman, owner Complaint #: NA

Responsible Party Mailing Address(es) and Phone Number(s):	Luther Coleman 624 W. Logan Harrisburg, IL 62946 618/252-4818	Aretha (Coleman?), daughter/operator 911 Jackson Harrisburg, IL 62946 Phone # unknown
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	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 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 # 1650205053

Inspection Date: 09/10/2003

	(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 checked="" type="checkbox"/> CIRCUIT COURT CASE NUMBER: 97-117-286 ORDER ENTERED ON: 02/20/1998	<input checked="" type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Kent A. Johnson

Signature of Inspector(s)

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Bureau of Land

LPC # 1650205053 — Saline County
Harrisburg/Coleman, Luther
Inspector K. Johnson
September 10, 2003
FOS File

Open Dump Inspection Report Narrative

This unpermitted site was inspected on September 10, 2003 by this author representing the Agency. The inspection was conducted as a follow-up to an August 22, 2003 reconnaissance inspection that revealed waste on the ground west and northwest of the house. The inspection took place from approximately 8:52 to 9:13 A.M., and six photos were taken during the inspection {Photos 001-006}. Weather was clear and warm with calm wind and dry soil conditions. Mr. Luther Coleman, the resident and apparent owner of the property, was interviewed during the inspection. Officer Tom Leverett of the Harrisburg Police Department accompanied me for security purposes.

General Remarks

This site is located at 624 W. Logan on the west side of Harrisburg, Illinois. Mr. Luther Coleman lives at, apparently owns, and operates the site. Mr. Coleman's mailing address is 624 W. Logan, Harrisburg, IL 62946, and his phone number is 618/252-4818. According to Mr. Coleman, he had surgery last August (2002), and has not hauled waste as a trash hauler since that time. Upon inquiry, Mr. Coleman advised that his daughter, Aretha (last name not known), hauled until recently, stopping approximately 2 months prior to the inspection. Aretha currently resides at 911 Jackson Street in Harrisburg, according to Mr. Coleman.

Inspection Findings

Officer Leverett and I arrived at the site, and I went to the door of the house, knocking twice. After waiting a few minutes with no answer, I proceeded west of the house, where there were three piles of waste and pick-up loaded with waste. I took two photos, one of what was apparently a tarped pile of waste {Photo 001} and the second of a Ford truck loaded with waste {Photo 002}. The truck was dark blue/black and gray with no license plate. The tarp was not moved, but waste was visible at the edges of the tarp. That pile was estimated at approximately 8' by 10' and 2' tall. The Ford truck had a tarp on it as well, but again, apparent waste was noted protruding from the tarp. Waste volume in the truck was estimated at 5' by 6' and 2' high. After taking the first two photos, I heard a noise from the house and Officer Leverett noted that Luther was coming out of the house.

At that time, I stopped taking photos and returned to the porch to speak to Mr. Coleman. I told Mr. Coleman who I was and why I was there. I stressed that the officer was

requested merely to keep the peace, that he (Mr. Coleman) was not being arrested, and that I was just trying to figure out the status of the site. I briefly interviewed Mr. Coleman, and he provided the information previously noted in the "General Remarks" section of this report. In addition, Mr. Coleman said that he had previously hauled trash routes in Harrisburg and Eldorado. I asked Mr. Coleman when the waste under the tarp was brought in, and he replied that it "had been tarped all along". When I repeated my question, Mr. Coleman replied to the effect of "about a month".

With regard to the trash route, I asked Mr. Coleman where he and his daughter routinely took their trash when they were running routes. Mr. Coleman noted that Saline County Landfill had shut down, so they had taken their trash to Marion. I clarified that he was referring to the Marion Transfer Station, and mentioned that there was a permitted landfill out by Galatia (West End Disposal Facility). Mr. Coleman, referring to the West End facility, said something like "I won't deal with that guy".

I pointed out a Dodge truck along the east side of the driveway that had bags of garbage in it. Mr. Coleman said that his daughter brought that truck in the day before, as she was cleaning out some stuff at her home. It is noted that the Dodge truck, shown in Photo 006, appears to be the same truck observed on this property from off-site on August 22, 2003. On that date, the truck was full of waste and had stock racks on it.

I asked Mr. Coleman how far over to the west he owned, and he said that he owned to the ditch. I told him that I would like to take photos and look around, asking if that was OK, but he did not reply. I repeated my statement differently, saying that as long as he didn't object, I was going to make some observations and take some photos. Again, Mr. Coleman said nothing so I proceeded to make brief observations and take photos while Mr. Coleman watched me.

North of the aforementioned tarped waste, three other piles of waste were observed {background of Photo 002, Photos 003-005}. These piles were each conservatively estimated at 8' by 8' and 2' tall at their maximum height, and they included waste such as demolition debris, metal, a few tires, etc. After making physical observations, I briefly spoke to Mr. Coleman prior to leaving the site. I told him that I did not know what would happen next in this matter, but that he obviously had some cleaning up to do. Mr. Coleman agreed, and said that he had done some clean-up recently, but only worked on it as he felt able to.

Summary of Inspection Findings

On this date, apparent violations were noted in reference to open dumping and the acceptance of waste without meeting permit requirements. Waste was observed open dumped on the ground in a number of locations. With regard to the acceptance of waste from off-site, waste was observed in two different vehicles, indicating that waste is being brought into the site. In addition, Mr. Coleman's statement that the waste on the ground under the tarp has been there for "about a month" acknowledges that it came from off-

**LPC # 1650205053 — Saline County
Harrisburg/Coleman, Luther
September 10, 2003 open dump inspection**

site. Based on this information, the following apparent violations are being cited at this time.

Sections 21(a), 21(p)(1), and 21(p)(7) are being cited because waste, including demolition debris, have been open dumped at this site resulting in litter.

Sections 21(d)(1) and 812.101(a) are being cited because waste has been accepted at this waste-disposal facility without a permit, nor has any permit application apparently been submitted to the Agency in an effort to obtain such a permit.

Sections 21(d)(2) and 21(e) are being cited because violations of the Act and Board regulations were observed at the time of this inspection.

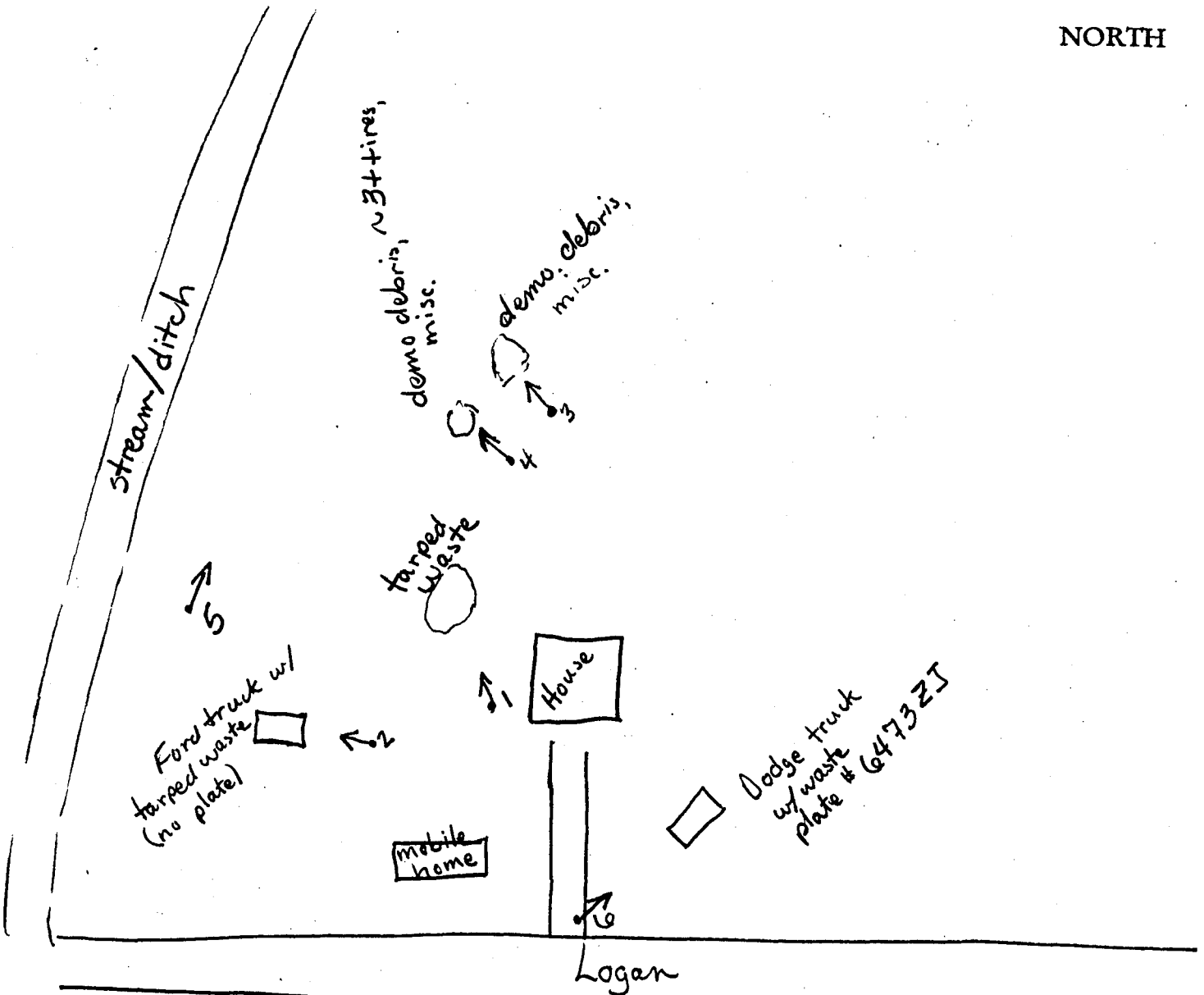
A probation order for case # 97-117-286, entered on February 20, 1998 in Saline County Circuit Court, states the following as condition # 21 for Luther Coleman: "not conduct a waste disposal operation without a permit..." Based on evidence obtained on the date of this inspection, it appears that Mr. Coleman is operating a waste disposal operation without a permit.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Inspection Date: September 10, 2003
Inspector: K. Johnson
LPC #: 165 020 5053
County: Saline
Site Name: Harrisburg/Coleman, Luther

NORTH



Site sketch is not to scale.

Cheney
↓
to Route 13

LPC # 1650205053 — Saline County
Harrisburg/Coleman, Luther
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 9/10/03
TIME: 8:57 AM
DIRECTION: North-
northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-001
COMMENTS:



DATE: 9/10/03
TIME: 8:57 AM
DIRECTION: West-
northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-002
COMMENTS:



LPC # 1650205053 — Saline County
Harrisburg/Coleman, Luther
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 9/10/03
TIME: 9:04 AM
DIRECTION: Northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-003
COMMENTS:



DATE: 9/10/03
TIME: 9:04 AM
DIRECTION: Northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-004
COMMENTS:



LPC # 1650205053 — Saline County
Harrisburg/Coleman, Luther
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 9/10/03
TIME: 9:05 AM
DIRECTION: North-
northeast
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-005
COMMENTS:



DATE: 9/10/03
TIME: 9:12 AM
DIRECTION: Northeast
PHOTO by: K. Johnson
PHOTO FILE NAME:
1650205053~09102003-006
COMMENTS:



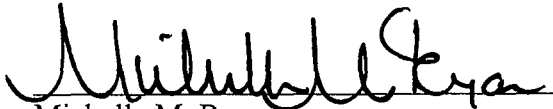
PROOF OF SERVICE

I hereby certify that I did on the 6th day of October 2003, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box the following instrument(s) entitled AFFIDAVIT OF SERVICE

To: Luther Coleman
624 W. Logan
Harrisburg, Illinois 62946

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail with postage thereon fully prepaid.

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



Michelle M. Ryan
Special Assistant Attorney General

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