

RECEIVED
CLERK'S OFFICE

OCT - 7 2004

STATE OF ILLINOIS
Pollution Control Board

William Wernigk
PO Box 71
Penfield, IL 61862
217-595-5416

TO: Clerk of the Illinois Pollution Control Board
State of Illinois Center
100 West Randolph Street, Suite 11-500
Chicago, IL 60601

October 4, 2004

RE: County File No. 04-02
County of Vermilion

Location: 3585 E 3200 North Rd
Potomac, IL 61865

AC 05-28

These actuations are untrue on all accounts. He, Douglas Toole, County of Vermilion, accepted the clean up job a couple of years ago. The situation has broken lumber scattered over a couple of acres of ground. There were two foundations, one from a corn crib and one from a big barn. I have taken the concrete from under ground, pushed the lumber up in a pile, and this is what this trespasser is taking a picture of. The old tires that he sees on my place are not junk, they are to be used. As for the shed out front, we took it down and are cleaning it up as we have the money. We do not need a trespasser coming in on our property.

There is no zoning in this area. There are many farms, locations with clean up jobs in the area. There are no building inspectors in the area. Because of no zoning in the area, he does not have the right to trespass on our property.

We are not living near anyone. The closest neighbor is ½ mile away. This neighbor let their cattle urinate and manure go in open streams on four farms and they have the right to turn us in to clean up our farm. This is harassment.

We do not have open dumping and he accepted it from court the last time. The scrap metal is to be used or sold. We sell firewood, we sell scrap metal, and aluminum and we have a right to make a living with it.

The garbage which is out there was thrown out by the tenant and his girl friend. We have had several discussions about this and have not gotten it through his head not to do it and he is one of my sons.

I can drive around the area and take pictures of dozens of others in worse shape. Thank you.

Sincerely,
William Wernigk
William Wernigk

Cc Tom Gordon, Attorney

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

COUNTY OF VERMILION, ILLINOIS,)	
)	
Complainant,)	AC No. _____
)	
v.)	County File No. 04-02
)	
BILL WERNIGK,)	
)	
Respondent.)	

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 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. Respondent, Bill Wernigk, is, and was at all times relevant to this Administrative Citation, the occupant and operator of property located at 3585 East 3200 North Road, Potomac, County of Vermilion, State of Illinois.
2. Said property is operated as an unlicensed open dump, and designated with Illinois Environmental Protection Agency Site Code No. 1838115002.
3. On July 22, 2004, 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 made a part hereof by reference.

VIOLATIONS

On the basis of the direct observation of Douglas Toole, the County of Vermilion has determined that on July 22, 2004, Respondent was conducting an unlicensed open dump at the above-described address, which is required to have a permit pursuant to 415 ILCS 5/21(a) of the Act, in a manner which resulted in the following conditions:

- A. Open dumping resulting in litter was observed at the site, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in ...litter; and
- B. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site, in violation of

Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...the deposition of general construction or demolition debris; or clean construction or demolition debris.

CIVIL PENALTY

Pursuant to section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent herein is subject to a civil penalty of Three Thousand Dollars (\$3000.00) for each of the above-mentioned violations, due to said violations being Respondent's subsequent violation of the provisions. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein, and if there is a finding of the violation alleged herein after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Pollution Control Board, in addition to the Three Thousand Dollar (\$3000.00) statutory penalty for each violation.

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 Board, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed within 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, 7 North Vermilion Street, Danville, Illinois 61832.

If you acknowledge the violation cited herein, the civil penalty specified above shall be due and payable no later than October 16, 2004. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of 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 adjudicatory 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.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF)
)
BILL WERNIGK,) AC No. _____
) County File No. 04-02
)
Respondent.)

AFFIDAVIT OF SERVICE ON CORPORATION

State of Illinois)
) ss
County of Vermilion)

I, the undersigned, on oath state that I have served the attached Administrative Citation on the Respondent, Bill Wernigk, by leaving a copy of the same with (name): _____, at (address): _____ at (time): _____, on (date): _____, 2004.

Investigator
Vermilion County State's Attorney Office

SUBSCRIBED AND SWORN TO BEFORE ME this ___ day of _____, 2004.

NOTARY PUBLIC

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

AFFIDAVIT

IN THE MATTER OF
BILL WERNIGK,

)
)
) AC No. _____
) County File No. 04-02
)
) Respondent.)

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

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 22, 2004, between 10:50 a.m. and 11:00 a.m., Affiant conducted an inspection of property at 3585 East 3200 North Road, within the County of Vermilion, State of Illinois, operated by Bill Wernigk.
3. Affiant inspected the property by an on-site inspection, which included walking on the site.
4. Prior to said inspection, Affiant had reviewed Illinois Environmental Protection Agency permits issued to the subject site.
5. As a result of the activities referred to in paragraphs 2, 3 and 4 above, Affiant completed the Solid Waste Landfill Inspection Checklist, with the accompanying 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 property at 3585 East 3200 North Road, Potomac, Illinois on July 22, 2004.

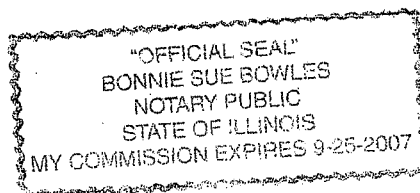
Douglas Toole

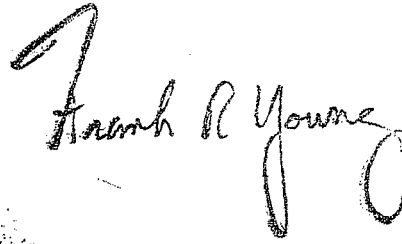
Douglas Toole

SIGNED and SWORN to before me this 14 day of September 2004, by
Douglas Toole.

Bonnie Sue Bowles

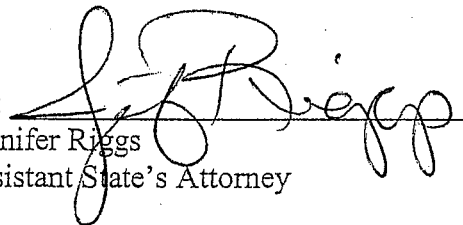
NOTARY PUBLIC





Dated: 9/14/04

Frank R. Young
State's Attorney for Vermilion County

By: 
Jennifer Riggs
Assistant State's Attorney

Prepared by:
Jennifer Riggs
Office of the State's Attorney
7 N. Vermilion St.
Danville, IL 61832
217-554-7750

REMITTANCE FORM

IN THE MATTER OF)
)
BILL WERNIGK,) AC No. _____
) County File No. 04-02
)
Respondent.)

Facility/Property: 3585 East 3200 North Road, Potomac, Illinois

County: Vermilion

Date of Inspection: July 22, 2004

Site Code No.: 1838115002

Civil Penalty: \$3000.00 for each violation = \$6000.00

Date Remitted: _____

SSN/FEIN No.: _____


Signature: _____

NOTE

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the County of Vermilion, Illinois. Be sure your check is enclosed with this Remittance Form and mail to: Vermilion County Health Department, 200 S. College Street, Danville, Illinois 61832.



INSPECTION PHOTOS

DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:55 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: NE		
NORTH PART OF SITE;		
4TH OF 4 PANORAMIC SHOTS		
ROLL #: PHOTO#: 9		

DATE: 7/22/04
TIME: 10:56 A.M.
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE
COMMENTS: Pictures taken toward: NW
CLOSER SHOT OF AREA
FROM PHOTO # 6
ROLL #: PHOTO#: 10





INSPECTION PHOTOS


DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:56 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: NE		
SAME AREA FROM PHOTO # 10		
ROLL #: PHOTO#: 11		

DATE: 7/22/04
TIME:
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE
COMMENTS: Pictures taken toward:
ROLL #: PHOTO#:

NO
PHOTO



INSPECTION PHOTOS


DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:55 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: NW		
NORTH PART OF SITE;		
2ND OF 4 PANORAMIC SHOTS		
ROLL #: PHOTO#: 7		

DATE: 7/22/04
TIME: 10:55 A.M.
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE
COMMENTS: Pictures taken toward: NE
NORTH PART OF SITE;
3RD OF 4 PANORAMIC SHOTS
ROLL #: PHOTO#: 8





INSPECTION PHOTOS


DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:54 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: SE		
EAST PART OF SITE		
ROLL #: PHOTO#: 5		

DATE: 7/22/04
TIME: 10:55 A.M.
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE
COMMENTS: Pictures taken toward: NW
NORTH PART OF SITE;
1st of 4 PANORAMIC SHOTS
ROLL #: PHOTO#: 6





INSPECTION PHOTOS


DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:51 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: W		
WEST PART OF SITE		
ROLL #: PHOTO#: 1		


DATE: 7/22/04
TIME: 10:51 A.M.
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE
COMMENTS: Pictures taken toward: NW
SAME AREA FROM PHOTO # 1
ROLL #: PHOTO#: 2





INSPECTION PHOTOS

DATE: 7/22/04	SITE #: 1838115002	CO.: VERMILION
TIME: 10:51 A.M.	SITE NAME: MIDDLEFORK / WERNIGK	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE		
COMMENTS: Pictures taken toward: W		
WEST PART OF SITE		
ROLL #: PHOTO#: 3		

DATE: 7/22/04	
TIME: 10:52 A.M.	
PHOTOGRAPH TAKEN BY: DOUGLAS TOOLE	
COMMENTS: Pictures taken toward: N	
VIEW OF NORTH PART OF SITE FROM DRIVEWAY	
ROLL #: PHOTO#: 4	



PUBLIC HEALTH IS PRICELESS

VERMILION COUNTY HEALTH DEPARTMENT

STEPHEN LAKER, M.S.
PUBLIC HEALTH ADMINISTRATOR

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

LPC #1838115002
Middlefork/Wernigk
FOS
7/22/04

OPEN DUMP INSPECTION NARRATIVE

This unpermitted open dump was reinspected on July 22, 2004 by Douglas Toole of the Vermilion County Health Department. The weather was cloudy, still and about 85 degrees Fahrenheit. Eleven photos were taken of the site.

The site is located in Vermilion County, northeast of the intersection of Vermilion County roads 3200 North and 350 East in rural Potomac. The address of the house on the property is 3585 E. 3200 North Road, Potomac. Bill Wernigk and his family live on the property. County records indicate the property is owned by James Dukeman of North Carolina.

INSPECTORS FINDINGS

By way of background, I had investigated incidents of open dumping and open burning of demolition waste and other refuse on the property starting in September 2000. The Wernigks brought the site into general compliance in January 2002, but in January, July and August of 2003, I had observed large piles of refuse on the property.

I arrived on the property at about 10:50 a.m. on July 22, 2004. No one answered the door of the house, and no one accompanied me during the reinspection.

From the driveway by the house, I observed derelict vehicles, tires, an appliance and other refuse west of the house (photos 1-3), tires and derelict vehicles south of the house (photo 5) and a pile of debris north of the house (photo 4).

Walking north of the house -- where I had observed waste piles in the past -- I observed bags of household garbage, boards, scrap metal, a metal barrel, wooden furniture, branches, a derelict vehicle and other refuse (photos 6-11). I left the site at about 11:00 a.m.



LPC #1838115002
Middlefork/Wernigk
7/22/04
Page 2 of 3

On the Inspection Report Checklist for this reinspection, I estimated that there were 150 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.

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. 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 resulting in litter was observed at the site.

LPC # 1838115002

Inspection Date: 07/22/2004

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

Douglas Toole

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.

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY

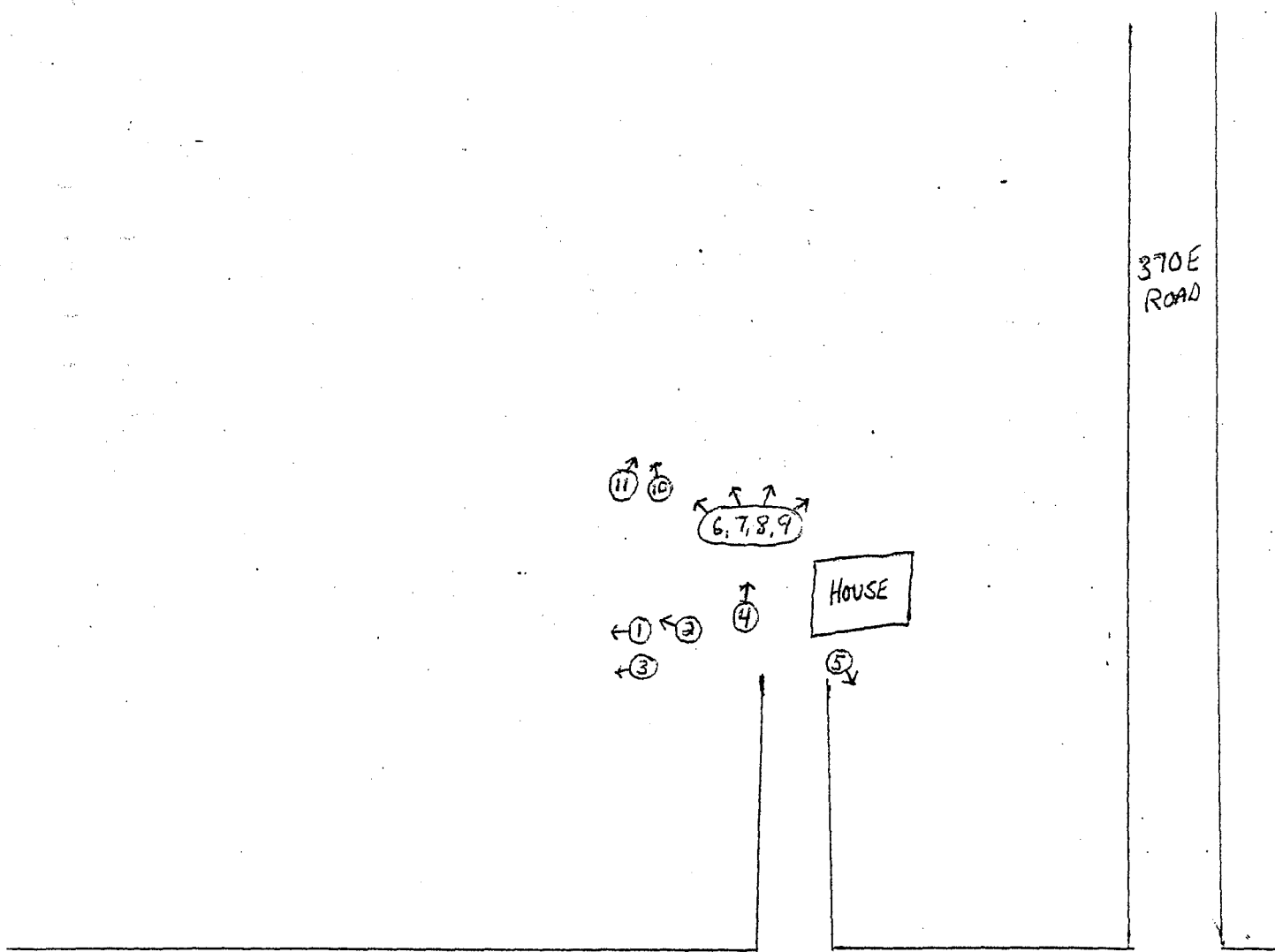
SITE SKETCH

Date of Inspection: JULY 22, 2004 Inspector: DOUGLAS TOOLE

Site Code: 1 8 3 8 1 1 5 0 0 2 County: VERMILION

Site Name: MIDDLEFORK / WERNIGK Time: 10:50 A.M. - 11:00 A.M.

4
N



3200 N ROAD

350 E
ROAD

370 E
ROAD

Printed on Recycled Paper

LPC #1838115002
Middlefork/Wernigk
7/22/04
Page 3 of 3

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.

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.