



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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CLERK'S OFFICE

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

MAR 28 2005

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

STATE OF ILLINOIS
Pollution Control Board

(217) 782-9817
TDD: (217) 782-9143

7002 3150 0000 1109 0047

March 24, 2005

AC05-61

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

Re: Illinois Environmental Protection Agency v. Timothy Pearce
IEPA File No. 59-05-AC; 0258105003—Clay County

Dear Clerk Gunn:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

James M. Kropid
Assistant Counsel

Enclosures

INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: This Administrative Citation refers to TWO separate State of Illinois Agencies. One is the **ILLINOIS POLLUTION CONTROL BOARD** located at State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) days** of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the clerk of the Illinois Pollution Control Board by either hand delivering or mailing to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the **ATTENTION: DIVISION OF LEGAL COUNSEL.**

MAR 28 2005

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
TIMOTHY PEARCE,)
)
Respondent.)

AC 05-61

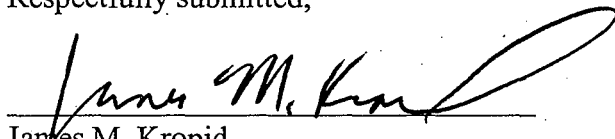
(IEPA No. 59-05-AC)

NOTICE OF FILING

To: Timothy Pearce
607 Birchwood
Flora, IL 62839

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,


James M. Kropid
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: March 24, 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

MAR 28 2005

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
v.)
TIMOTHY PEARCE,)
Respondent.)

AC 05-61
(IEPA No. 59-05-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 Timothy Pearce ("Respondent") is the present owner and operator of a facility located at 241 North Willow Road, Flora, Clay County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Flora/Pearce, Timothy.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0258105003.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on February 16, 2005, Garrison Gross 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 Garrison Gross during the course of his February 16, 2005 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 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 One Thousand Five Hundred Dollars (\$1,500.00). 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 April 30, 2005, 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 *by wcc*
Illinois Environmental Protection Agency

Date: 3/24/05

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

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STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Complainant,)
)
 v.)
)
 TIMOTHY PEARCE,)
)
)
)
)
 Respondent.)

AC 05-61
 (IEPA No. 59-05-AC)

FACILITY: Flora/Pearce, Timothy

SITE CODE NO.: 0258105003

COUNTY: Clay

CIVIL PENALTY: \$1,500.00

DATE OF INSPECTION: February 16, 2005

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,)
)
) IEPA DOCKET NO.
 v.)
)
 Timothy Pearce)
)
 Respondent.)

AFFIDAVIT

Affiant, Garrison Gross, being first duly sworn, voluntarily deposes and states as follows:

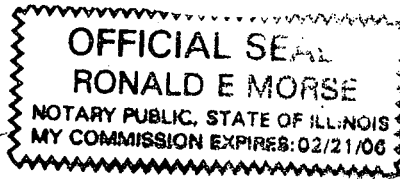
1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On February 16, 2005, between 11:30 AM and 11:40 AM, Affiant conducted an inspection of a disposal site operated by Timothy Pearce, located in Clay County, Illinois, and known as Timothy Pearce open dump site by the Illinois Environmental Protection Agency. Said site has been assigned site code number 025 810 5003 by the Agency.
3. Affiant inspected said Timothy Pearce open dump 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 Timothy Pearce open dump site.

Barisom Gross

Subscribed and Sworn to before me
this 22nd day of February, 2005

Ronald E. Morse
Notary Public



GES:GG:20541/02-22-05

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

County: Clay LPC#: 0258105003 Region: 7 - Marion
 Location/Site Name: Flora / PEARCE, Timothy
 Date: 02/16/2005 Time: From 11:30 AM To 11:40 AM Previous Inspection Date: 10/19/2004
 Inspector(s): Garrison Gross Weather: Mostly Sunny, 43°F, Light Breeze
 No. of Photos Taken: # 4 Est. Amt. of Waste: 515 yds³ Samples Taken: Yes # _____ No
 Interviewed: No Residence At The Site Complaint #: C-01-119, C-05-092

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

Timothy Pearce
607 Birchwood
Flora, IL 62839

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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 # 0258105003

Inspection Date: 02/16/2005

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

Garrison Gross

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
Narrative Inspection Report

Site #: 0258105003

County: Clay

Date of Inspection: February 16, 2005

Site Name: Flora / PEARCE, Timothy

Township: Stanford

Inspectors: G. Gross

GPS Coordinates: N38.63838° W088.46314°

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Subject: Open Dump Site Inspection At Timothy Pearce Property

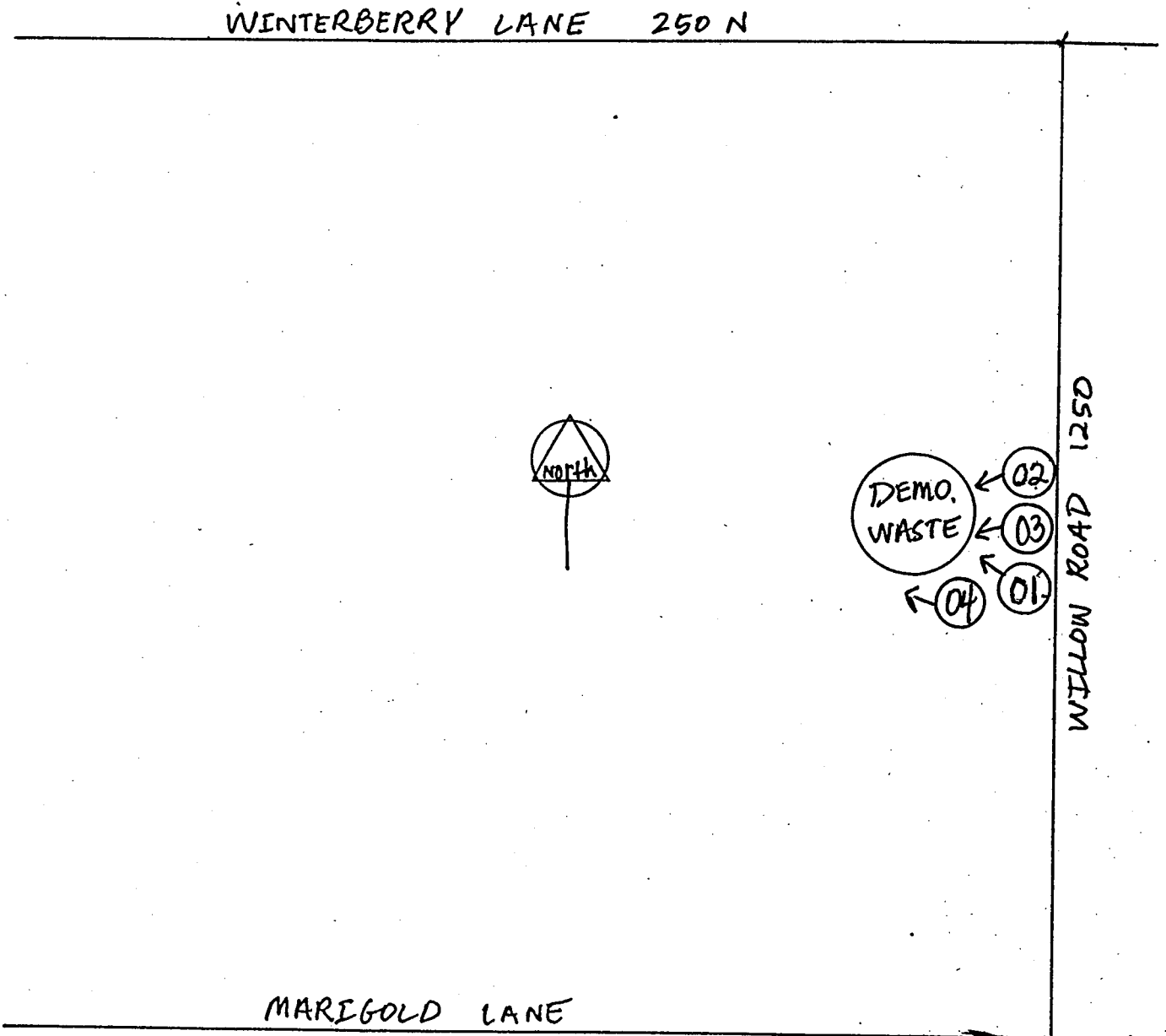
General Remarks: A Follow-up Open Dump Site Inspection was conducted on Wednesday, February 16, 2005 at the property of Timothy Pearce. Garrison Gross of the Illinois EPA Bureau of Land conducted the inspection. The property is located at 241 North Willow Road, Flora, Illinois. The inspection was performed as a follow up to a telephone complaint and a previous inspection conducted on October 19, 2004. The telephone complaint alleged that additional open dumping of construction and demolition waste was occurring at the site. Weather conditions at the time of the inspection were mostly sunny, 43° F, with a light breeze.

The inspection began at 11:30 AM. The construction and demolition waste that was observed on October 19, 2004 was still at the site (photos 001 and 002). It appeared that additional waste had been recently open dumped at the site. The dirt entrance was muddy and several tire tracks were observed leading to what appeared to be new waste piles (photos 003 and 004). Two of the photographs that were taken on this inspection were taken in the approximate location of the photographs taken on October 19, 2004. The new construction and demolition waste was composed of primarily busted concrete. Approximately 515 cubic yards of waste was observed at the site. The inspection ended at approximately 11:40 AM.



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Site Sketch

Date: February 16, 2005
Site #: 0258105003
Site Name: Flora / PEARCE, Timothy
County: Clay
Inspector: Garrison Gross
GPS Coordinates: N 38.63838° W 088.46314°
Not Drawn to Scale: All Locations Are Approximate





DIGITAL PHOTOGRAPHS



Date: 02/16/2005
Time: 11:36 AM
Direction: West
Photo by: G. Gross
Exposure #: 001
Comments:



Date: 02/16/2005
Time: 11:36 AM
Direction: West
Photo by: G. Gross
Exposure #: 002
Comments:

File Names: 0258105003~02162005-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 02/16/2005
Time: 11:37 AM
Direction: West
Photo by: G. Gross
Exposure #: 003
Comments:



Date: 02/16/2005
Time: 11:38 AM
Direction: West
Photo by: G. Gross
Exposure #: 004
Comments:

File Names: 0258105003~02162005-[Exp. #].jpg

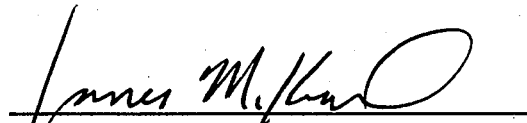
PROOF OF SERVICE

I hereby certify that I did on the 24th day of March 2005, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: Timothy Pearce
607 Birchwood
Flora, IL 62839

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, 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


James M. Kropid
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
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