



BEFORE THE POLLUTION CONTROL BOARD

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

AC 06- 21
 Site # 0778035009

RECEIVED
 CLERK'S OFFICE
 JAN 30 2006
 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: _____

Sex: Male Female _____

Age: 5/29/53

Date of Service: 1-24 2006

Time: 11:40 A. .m.

Robert Burns
 /S/ Robert Burns, Jackson County Sheriff
 By his Deputy: @ Ga Co Sheriff Dept.

M. Shepard

PLEASE RETURN TO:

DANIEL BRENNER
 JACKSON COUNTY STATE'S ATTORNEY'S OFFICE

BEFORE THE POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 30 2006

STATE OF ILLINOIS
Pollution Control Board

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

AC 06- 21

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, Illinois 62966
618-687-7200

REMITTANCE FORM

RECEIVED
CLERK'S OFFICE

JAN 30 2006

STATE OF ILLINOIS
Pollution Control Board

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

AC 06- 21

FACILITY: DESOTO/DAN KIMMEL SITE
COUNTY: JACKSON
DATE OF INSPECTION: December 7, 2005
SITE CODE: 0778035009
CIVIL PENALTY: \$3,000.00

Date Remitted _____

SS/FEIN # _____

Signature _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Shirley Dillinger Booker
Jackson County Treasurer
Jackson County Courthouse
Murphysboro, Illinois, 62966

**BEFORE THE POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION**

**RECEIVED
CLERK'S OFFICE**

JAN 30 2006

STATE OF ILLINOIS
Pollution Control Board

COUNTY OF JACKSON)	
Complainant,)	
)	
v.)	AC 06- 21
)	Site Code: 0778035009
DAN KIMMEL)	
Respondent.)	

JURISDICTION

This Administrative Citation is issued pursuant to authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. seq.* (1996), specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent 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 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 December 7, 2005, Don Terry and Bart Hagston, Field Inspectors, Jackson County Health Department, inspected the facility. A true and correct copy of the inspection report, along with Mr. Terry's and Mr. Hagston's affidavits, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspectors, Don Terry's and Bart Hagston's, direct observations, they have 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 December 7, 2005, 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; or clean construction or demolition debris in violation of 415 ILCS 5/21(p)(7).

CIVIL PENALTY

In accordance with 415 ILCS 5/42 (b)(4-5), the Respondent is subject to a civil penalty of \$1,500.00 for each violations specified above. Additionally, should the Respondent elect to petition the Illinois Pollution Control Board under the review process described below, after an adjudicatory hearing, the Respondent shall be assessed the hearing costs incurred by the Pollution Control Board. The hearing costs would be in addition to the \$3000.00 fine.

If you acknowledge the violations cited herein above, the civil penalty shall be due and payable no later than March 13, 2006. If you do not petition the Pollution

Control Board for review of the Administrative Citation within 35 days of service of the Administrative Citation, or contest the Citation, any judgment that may be rendered against you shall specify the due date of the civil fines and any additional costs assessed against you.

When payment is made, your check should be made payable to the Jackson County's Treasurer Office and mailed to the attention of Shirley Dillinger Booker, Jackson County Treasurer, Murphysboro, Illinois, 62966. Also, please complete and return the enclosed remittance form, along with your payment, to assure proper credit.

If any civil penalty is not paid within the prescribed time, the law allows for the accumulation and payment of interest on the remaining unpaid balance. If any civil penalty is not paid when due, the Office of the State's Attorney shall be requested to initiate proceedings in Circuit Court to collect the penalty. In addition to the civil penalty, hearing costs, and interest, if any, the Jackson County State's Attorney may seek to recover their costs of litigation.

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, Illinois, 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**

For Review, a Default Order will be entered against you 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, Illinois 62966

DATED: JAN 12, 2006


Daniel Brenner
Assistant State's Attorney

JACKSON COUNTY HEALTH DEPARTMENT

AFFIDAVIT

IN THE MATTER OF:

077 803 5009 / Jackson County
DeSoto / Dan Kimmel
COMPLIANCE FILE

Respondent.

Affiant, Bart Hagston, 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 December 7, 2005, between the hours of 11:40 am and 12:05 pm, Affiant conducted an inspection of the open dump site known as DeSoto / 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 aided in the completion of 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, DeSoto, Illinois, open dump site.

Bart Hagston

Bart Hagston
Solid Waste Inspector

Subscribed and Sworn To before me
this 14 day of December, 2005

Tracy L. Hartung
Notary Public

"OFFICIAL SEAL"
TRACY L. HARTUNG
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 03/04/2006

"OFFICIAL SEAL"
TRACY L. HARTUNG
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 03/04/2006

JACKSON COUNTY HEALTH DEPARTMENT

AFFIDAVIT

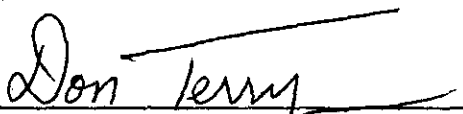
IN THE MATTER OF:

077 803 5009 / Jackson County
DeSoto / Dan Kimmel
COMPLIANCE FILE

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 December 7, 2005, between the hours of 11:40 am and 12:05 pm, Affiant conducted an inspection of the open dump site known as DeSoto/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, DeSoto, Illinois, open dump site.



Don Terry
Solid Waste Inspector

Subscribed and Sworn To before me
this 12 day of December, 2005



Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Jackson LPC#: 077 803 5009 Region: 7 - Marion
 Location/Site Name: DeSoto / Dan Kimmel
 Date: 12/07/2005 Time: From 11:40 am To 12:05 pm Previous Inspection Date: 01/20/2005
 Inspector(s): Don Terry & Bart Hagston Weather: 13°F -- sunny with moderate, gusting winds
 No. of Photos Taken: # 21 Est. Amt. of Waste: 325 yds³ Samples Taken: Yes # No
 Interviewed: no one at site Complaint #: 2004--067
 Latitude: 37.82738 Longitude: -89.24945 Collection Point Description: Center of Site -
 (Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: GPS - Accuracy @ +/- 13 feet

Responsible Party Mailing Address(es) and Phone Number(s):	Mr. Dan Kimmel 1065 Dumaroc Rd DeSoto, IL 62924	
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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 # 077 803 5009

Inspection Date: 12/07/2005

	(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 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:	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

- [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- 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.
- 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.

NARRATIVE INSPECTION REPORT DOCUMENT
OPEN DUMP SITE

Date of Inspection: December 7, 2005

Inspector: Don Terry & Bart Hagston

Site Code: 077 803 5009

County: Jackson

Site Name: DeSoto / Dan Kimmel

Time: 11:40 am – 12:05 pm

GPS: 37.82738 -89.24945

GPS Accuracy: +/- 13 feet

Volume of Waste: Approximately 325 cu / yds

GENERAL REMARKS

During the date and time listed above, an inspection of the DeSoto / Dan Kimmel site, at 1065 Dumaroc Road (**Photo #9B, Site Sketch**) was conducted by these inspectors. Weather conditions during the inspection were: a temperature of approximately 13°F, sunny with moderate winds.

Upon arrival, we observed vehicles and other materials scattered around the site, evidence of the continued open dumping of waste, resulting in litter and the deposition of general construction / demolition debris (**Photos #1A - #12A & #1B - #8B, Site Sketch**). These materials were visible from Dumaroc Road, a public roadway (**Photo #8B, Site Sketch**).

We first went to the front door of the Kimmel residence and knocked. No one answered, so we continued the inspection.

We walked around the area south of the Kimmel residence (**Marked A on Site Sketch**). Within this area we observed vehicles, a lead acid battery, waste tires, white goods, construction / demolition debris, scrap metal, wire, PVC pipe and a wide variety of domicile waste, open dumped (**Photos #1A - #6A and #1B - #8B, Site Sketch**). At the time of the inspection, the items listed above were not in use, were not useable in their current condition, and were not stored in such a way as to protect any future use.

We walked to an area north of the residence (**Marked B on Site Sketch**). We observed a collection of approximately ten abandoned vehicles, a mobile home, recreational vehicles, white goods, construction / demolition debris scrap metal and other, various materials that had been disposed in this area (**Photos #7A - #12A, Site Sketch**). At the time of the inspection, these materials were not in use, were not useable in their current condition, and were not stored in such a way as to protect any future use.

The total approximate volume of waste at the site was 325 cu / yds. The inspection ended at approximately 12:05 pm.

Continuing Violations Observed:

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

Item #6(21)(d)(1): Conduct any waste-storage, waste-treatment, or waste-disposal operation: Without a permit; 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: There is still no record that the owner has been issued a permit by the Agency to conduct a waste-storage, waste-treatment, or waste-disposal operation. Also during the inspection, violations of regulations and standards regarding daily cover and litter control 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: Due to the amount of waste (Approximately 325 cu / yds) and the types of waste observed, it could be reasonably assumed that the materials were transported onto the site from other locations for the purpose of disposal.

Item #9(55)(a)(1): No person shall: Cause or allow open dumping of any used or waste tire: During the inspection, waste tires that had been open dumped were observed.

Item #10(812.101)(a): Failure to submit an application for a permit to develop and operate a landfill; Item #15(807.201): Failure to obtain 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: There is still no record that the property owner has applied for or has been issued a permit to develop or operate a landfill or solid waste management site.

OPEN DUMP INSPECTION SITE SKETCH

Date Of Inspection: December 7, 2005

Inspector: Don Terry & Bart Hagston

Site Code: 077 803 5009

County: Jackson

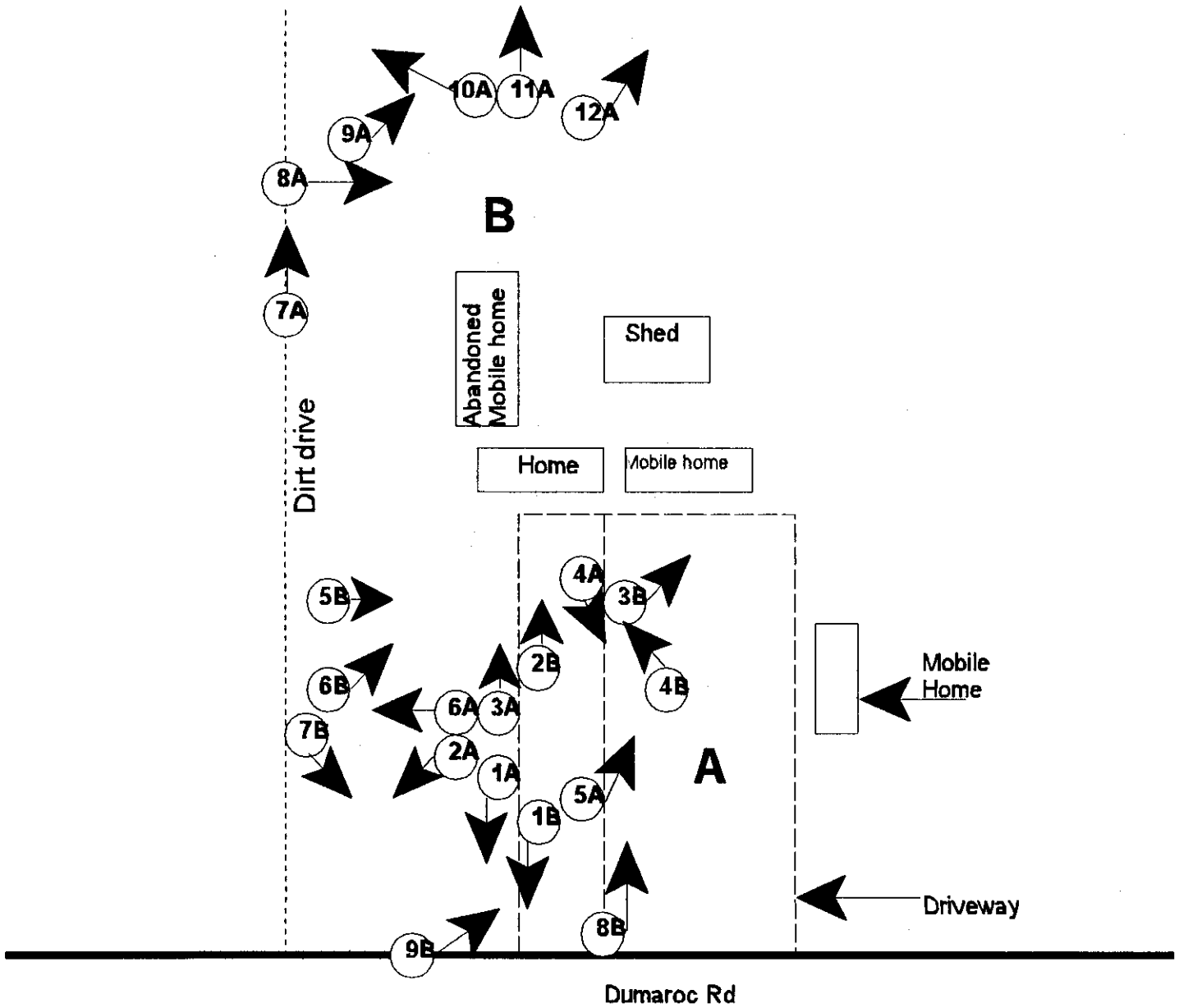
Site Name: DeSoto / Danny Kimmel

Time: 11:40 am – 12:05 pm

Not Drawn to Scale

All Locations Are Approximate

O → Indicates Approximate Location & Direction of Photos





Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:45 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by:
Don Terry

Comments –
Photo taken towards:

South

Photo File Name:

0778035009-12072005-01A



Date: December 7, 2005

Time: 11:45 am

Photo taken by:
Don Terry

Comments –
Photo taken towards:

Southwest

Photo File Name:

0778035009-12072005-02A





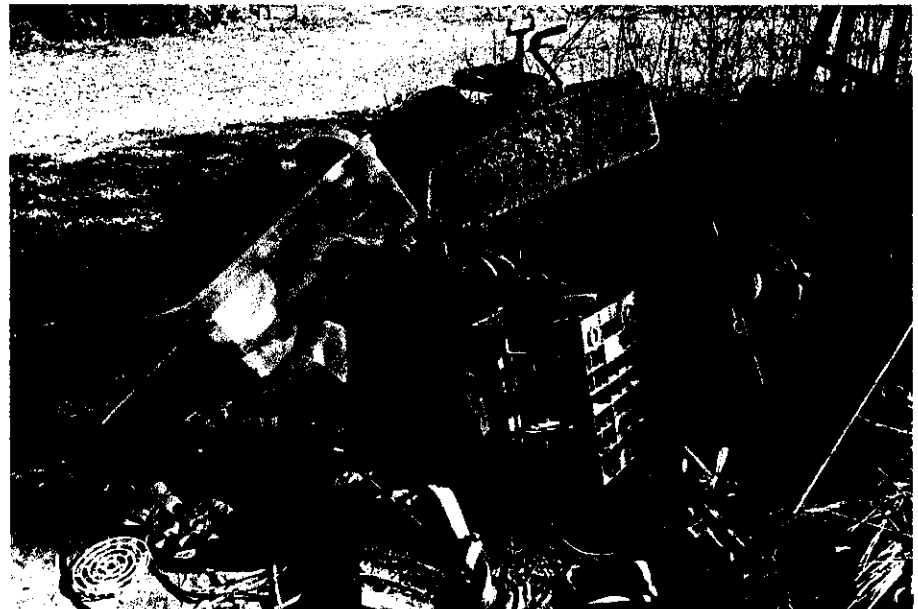
Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:45 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Don Terry
Comments – Photo taken towards: North
Photo File Name: 0778035009-12072005-03A



Date: December 7, 2005
Time: 11:45 am
Photo taken by: Don Terry
Comments – Photo taken towards: Southeast
Photo File Name: 0778035009-12072005-04A





Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:46 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by:
Don Terry

Comments –
Photo taken towards:

Northeast

Photo File Name:

0778035009-12072005-05A



Date: December 7, 2005

Time: 11:46 am

Photo taken by:
Don Terry

Comments –
Photo taken towards:

West

Photo File Name:

0778035009-12072005-06A





Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:49 am	Site Name: DeSoto / Dan Kimmel	

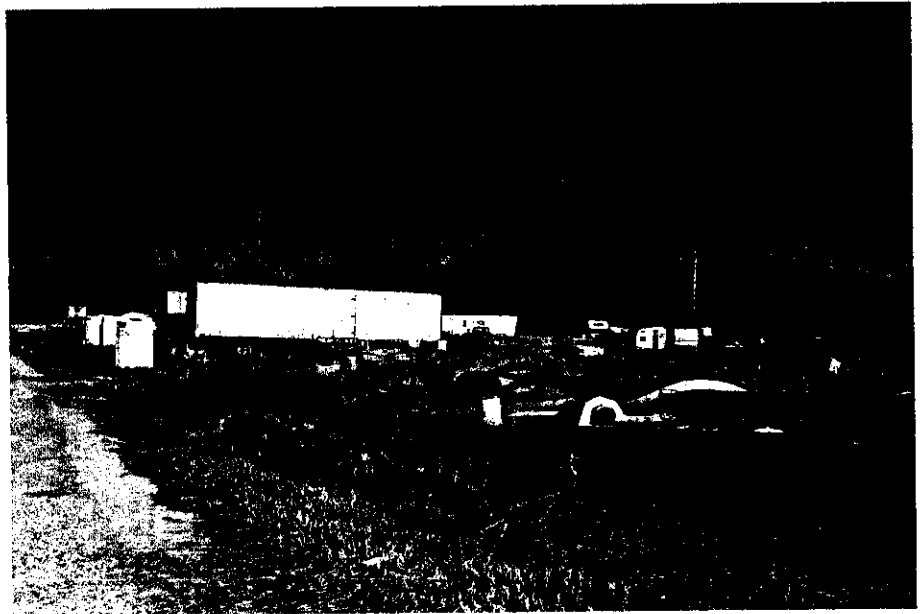
Photo taken by:
Don Terry

Comments –
Photo taken towards:

North

Photo File Name:

0778035009-12072005-07A



Date: December 7, 2005

Time: 11:50 am

Photo taken by:
Don Terry

Comments –
Photo taken towards:

East

Photo File Name:

0778035009-12072005-08A





Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:50 am	Site Name: DeSoto / Dan Kimmel	

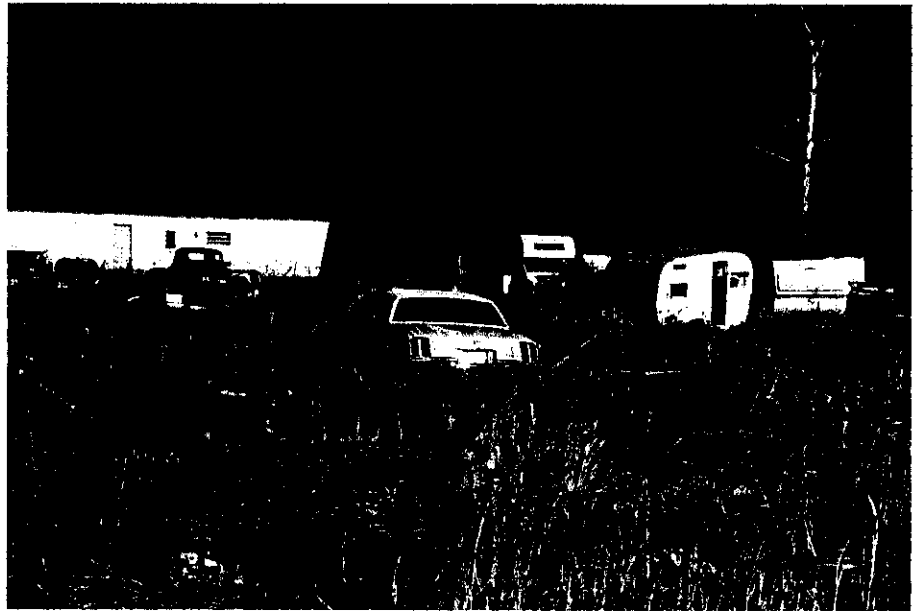
Photo taken by:
Don Terry

Comments –
Photo taken towards:

Northeast

Photo File Name:

0778035009-12072005-09A



Date: December 7, 2005

Time: 11:51 am

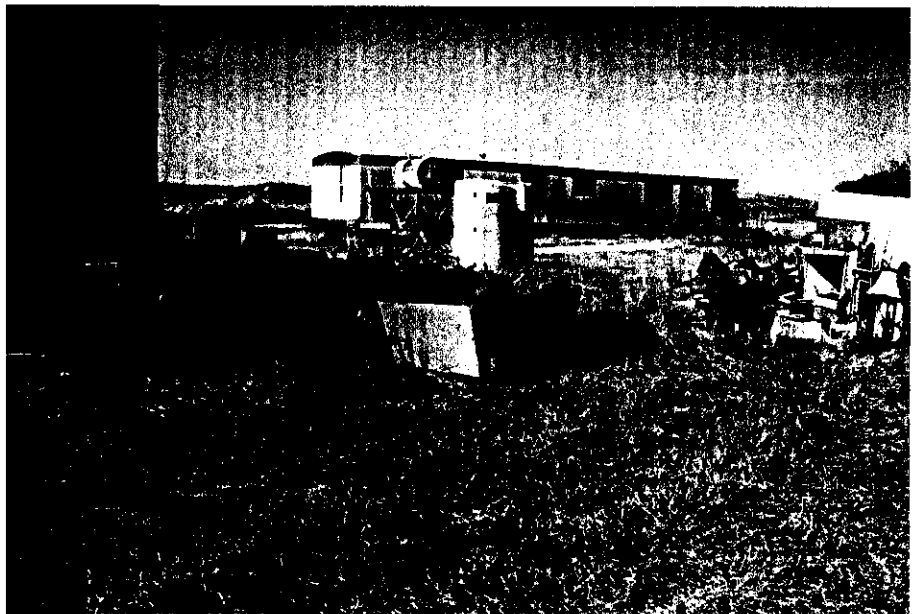
Photo taken by:
Don Terry

Comments –
Photo taken towards:

Northwest

Photo File Name:

0778035009-12072005-10A





Digital Inspection Photo Sheet: Set A

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:51 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Don Terry
Comments – Photo taken towards: North
Photo File Name: 0778035009-12072005-11A



Date: December 7, 2005
Time: 11:51 am
Photo taken by: Don Terry
Comments – Photo taken towards: Northeast
Photo File Name: 0778035009-12072005-12A





Digital Inspection Photo Sheet: Set B

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:48 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Bart Hagston
Comments – Photo taken towards: South
Photo File Name: 0778035009-12072005-01B



Date: December 7, 2005
Time: 11:48 am
Photo taken by: Bart Hagston
Comments – Photo taken towards: North
Photo File Name: 0778035009-12072005-02B





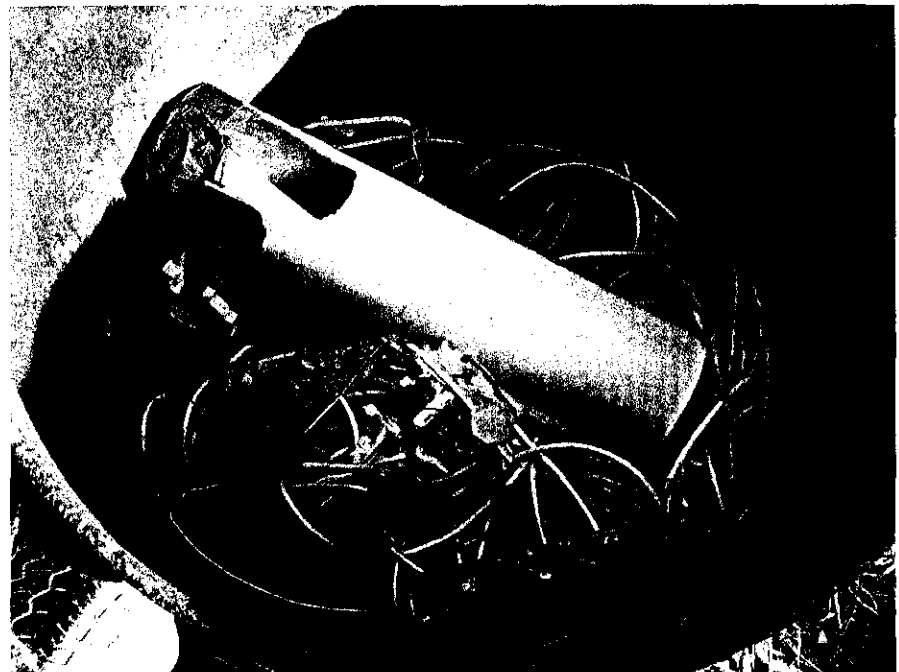
Digital Inspection Photo Sheet: Set B

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:48 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Bart Hagston
Comments – Photo taken towards: Northeast
Photo File Name: 0778035009-12072005-03B



Date: December 7, 2005
Time: 11:48 am
Photo taken by: Bart Hagston
Comments – Photo taken towards: Northwest
Photo File Name: 0778035009-12072005-04B





Digital Inspection Photo Sheet: Set B

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:50 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by:
Bart Hagston

Comments –
Photo taken towards:

East

Photo File Name:

0778035009-12072005-05B



Date: December 7, 2005

Time: 11:50 am

Photo taken by:
Bart Hagston

Comments –
Photo taken towards:

Northeast

Photo File Name:

0778035009-12072005-06B





Digital Inspection Photo Sheet: Set B

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 11:50 am	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Bart Hagston
Comments – Photo taken towards: Southeast
Photo File Name: 0778035009-12072005-07B



Date: December 7, 2005
Time: 12:00 noon
Photo taken by: Bart Hagston
Comments – Photo taken towards: North
Photo File Name: 0778035009-12072005-08B

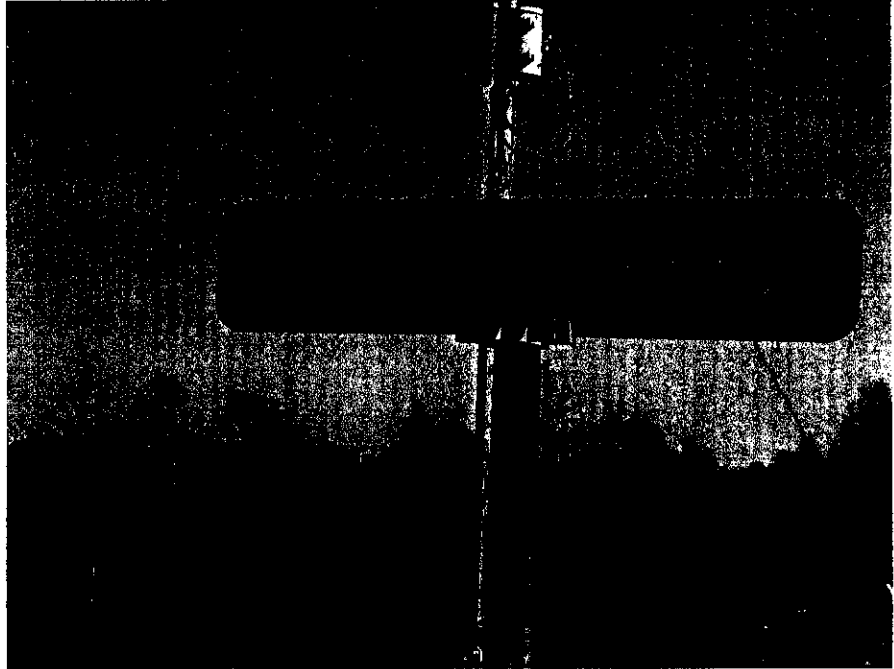




Digital Inspection Photo Sheet: Set B

Date: December 7, 2005	Site #: 077 803 5009	County: Jackson
Time: 12:00 noon	Site Name: DeSoto / Dan Kimmel	

Photo taken by: Bart Hagston
Comments – Photo taken towards: Northeast
Photo File Name: 0778035009-12072005-09B



Date:
Time:
Photo taken by:
Comments – Photo taken towards:
Photo File Name:

No Photo