

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Indiana Properties, Inc., c/o Registered Agent, )  
 Kerry Baba, )  
 )  
 Respondent. )

AC 13 - 47

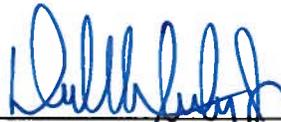
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CLERK'S OFFICE  
MAY 23 2013  
STATE OF ILLINOIS  
Pollution Control Board

 ORIGINAL

NOTICE OF FILING

To: Indiana Properties, Inc., c/o Registered Agent, Kerry Baba, 610 Sheridan Road 3C, Highwood, IL 60040

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.

  
\_\_\_\_\_  
David Searby, Assistant State's Attorney  
Perry County, Illinois

Perry County State's Attorney's Office  
Perry County Courthouse  
1 Public Square  
Pinckneyville, IL 62274  
(618) 357-6221

DATED: May 20, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Indiana Properties, Inc., c/o Registered Agent, )  
 Kerry Baba, )  
 )  
 Respondent. )

AC 13 - 44

**RECEIVED**  
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MAY 23 2013  
STATE OF ILLINOIS  
Pollution Control Board

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of Perry.

  
\_\_\_\_\_  
David Searby, Assistant State's Attorney  
Perry County, Illinois

Perry County State's Attorney's Office  
Perry County Courthouse  
1 Public Square  
Pinckneyville, IL 62274  
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AC 13 - 47

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Pollution Control Board

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

FACTS

1. The Respondent, Indiana Properties, Inc., is the present owner; and is in control and possession of a facility located in the County of Perry, State of Illinois. The Registered Agent of Indiana Properties, Inc., is Kerry Baba.
2. The facility is an open dump and designated with the Site Code #1450055027. The facility is known to the Agency as the Cutler/Indiana Properties, Inc. site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On April 15, 2013, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has 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 September 15, 2011, 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 construction and/or demolition debris in violation of 415 ILCS 5/21(p)(7)
3. The Respondent has caused or allowed water to accumulate in used or waste tires in violation of 415 5/55(k)(1)

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 August 1, 2013, 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 (2006), and if the Illinois Pollution Control Board issues a finding of violation(s) 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 Fifteen Hundred Dollars (\$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), 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 a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) Perry County Solid Waste, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Complainant may initiate proceedings against Respondent in Circuit Court or other debt collection actions 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 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with David Searby, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. Your petition must state the reason(s) you believe the present matter should not be issued. If you fail to file your petition and state the reasons the present matter should not be issued, a default order against you will be entered by the Illinois 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, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, David Searby  
Assistant State's Attorney  
Perry County Courthouse  
Pinckneyville, IL 62274



---

David Searby, Assistant State's Attorney  
Perry County, Illinois

DATE: May 20, 2013

Perry County State's Attorney's Office  
Perry County Courthouse  
1 Public Square  
Pinckneyville, IL 62274  
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Indiana Properties, Inc., c/o Registered Agent, )  
 Kerry Baba, )  
 )  
 Respondent. )

AC 13 - 47

**RECEIVED**  
**CLERK'S OFFICE**  
**MAY 23 2013**  
**STATE OF ILLINOIS**  
**Pollution Control Board**

FACILITY: Cutler/Indiana Properties, Inc.

COUNTY: Perry

DATE OF INSPECTION: April 15, 2013

SITE CODE: 1450055027

DATE REMITTED: \_\_\_\_\_

SS/FEIN NUMBER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NOTE

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

Perry County Solid Waste  
c/o Perry County Treasurer  
Perry County Government Building  
3764 State Route 13/127  
Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 Indiana Properties, Inc., c/o Registered Agent, )  
 Kerry Baba, )  
 )  
 Respondent. )

AC 13 - 47

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Pollution Control Board

FACILITY: Cutler/Indiana Properties, Inc.

COUNTY: Perry

DATE OF INSPECTION: April 15, 2013

SITE CODE: 1450055027

DATE REMITTED: \_\_\_\_\_

SS/FEIN NUMBER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NOTE

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

Illinois Environmental Protection Agency  
Attention: Fiscal Services  
PO Box 19276  
Springfield, IL 62794-9276

PROOF OF SERVICE

I hereby certify that I did on the 20<sup>th</sup> day of May 2013, transmit to the Lake County Sheriff's Department a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVITS, OPEN DUMP INSPECTION CHECKLIST, OPEN DUMP NARRATIVE, SITE SKETCH AND PHOTO SHEETS, which will be served upon the following:

To: Indiana Properties, Inc.  
c/o Registered Agent, Kerry Baba  
610 Sheridan Road 3C  
Highwood, IL 60040

**RECEIVED**  
**CLERK'S OFFICE**  
**MAY 23 2013**  
**STATE OF ILLINOIS**  
**Pollution Control Board**

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: Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, IL 60601-3218

  
\_\_\_\_\_  
David Searby, Assistant State's Attorney  
Perry County, Illinois

Perry County State's Attorney's Office  
Perry County Courthouse  
1 Public Square  
Pinckneyville, IL 62274  
(618)357-6221

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CLERK'S OFFICE

MAY 23 2013

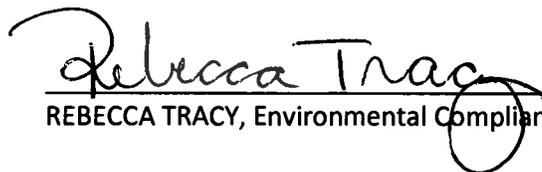
STATE OF ILLINOIS  
Pollution Control Board

COUNTY OF PERRY  
AFFIDAVIT

COUNTY OF PERRY	)	
	)	
Complainant,	)	AC 13 - <u>41</u>
	)	
vs.	)	
	)	
Indiana Properties, Inc., c/o Registered Agent,	)	
Kerry Baba,	)	
	)	
Respondent.	)	

Affiant, Rebecca Tracy, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Perry County Solid Waste Management Department and has been so employed at all times pertinent hereto.
2. On April 15, 2013 between the hours of 1:25 p.m. and 1:27 p.m., Affiant conducted an inspection of the open dump site known as Cutler/Indiana Properties, Inc., Perry County, Illinois. Said site has been assigned Site Code No. 1450055027.
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 Open Dump Inspection Checklist and Narrative Inspection Report 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 open dump site known as Cutler/Indiana Properties, Inc.

  
 REBECCA TRACY, Environmental Compliance Inspector

Subscribed and Sworn to before me this  
16<sup>th</sup> day of May, 2013.

  
 Notary Public





LPC # 1450055027

Inspection Date: 04/15/2013

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"/>
10.	55(k)	NO PERSON SHALL:	
	(1)	Cause or Allow Water to Accumulate in Used or Waste Tires	<input checked="" type="checkbox"/>
	(4)	Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements	<input type="checkbox"/>
<b>ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT REQUIREMENTS</b>			
11.	95(a)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A COVERED ELECTRONIC DEVICE (CED) OR OTHER LISTED DEVICE WITH MUNICIPAL WASTE THAT IS INTENDED FOR DISPOSAL AT A LANDFILL	<input type="checkbox"/>
12.	95(b)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE DISPOSAL OF A CED OR OTHER LISTED DEVICE IN A SANITARY LANDFILL	<input type="checkbox"/>
13.	95(c)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A CED OR OTHER LISTED DEVICE WITH WASTE THAT IS INTENDED FOR DISPOSAL BY BURNING OR INCINERATION	<input type="checkbox"/>
14.	95(d)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE BURNING OR INCINERATION OF A CED OR OTHER LISTED DEVICE	<input type="checkbox"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
15.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
16.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
17.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
18.	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"/>
19.	815.201	FAILURE TO FILE AN INITIAL FACILITY REPORT WITH THE AGENCY TO PROVIDE INFORMATION CONCERNING LOCATION AND DISPOSAL PRACTICES OF THE FACILITY	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
20.		APPARENT VIOLATION OF: <input type="checkbox"/> PCB; <input type="checkbox"/> CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
21.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

**Informational Notes**

1. [Illinois] Environmental Protection Act: 415 ILCS 5/1 et seq.; and The Electronic Products Recycling and Reuse Act: 415 ILCS 150/5 et seq.
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, subsection (k) of Section 55 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of that Act or by complaint under Section 31 of that Act. Violation of the Electronic Products Recycling and Reuse Act shall be enforceable by administrative citation under Section 20(k) of that Act, or referral to the Attorney General, pursuant to Section 20(a) of that 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); and Section 20(a) of the Electronic Products Recycling and Reuse Act: 415 ILCS 150/20(a).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

**Perry County Solid Waste Management Department  
Narrative Inspection Report**

**Site #: 1450055027**

**Date: 04/15/2013**

**County: Perry**

**Inspector: Rebecca Tracy**

**Subject: Indiana Properties, Inc.  
PO Box 2052  
Northbrook, IL 60065**

**c/o Kerry Baba, Registered Agent  
610 Sheridan Road 3C  
Highwood, IL 60040**

**Site Address: Ram Road  
Cutler, IL 62238**

On April 15, 2013 an open dump inspection was performed at a site on Ram Road, Cutler, IL. To arrive at the site you turn west onto Ram Road via Kangaroo Road. The lot is the second lot after you turn onto Ram Road from Kangaroo Road. This property appears to have been bought at a tax sale.

The information obtained from the Perry County Assessor's office indicates that the owner of the property is Indiana Properties, Inc., and the address listed as where the tax bill is mailed is PO Box 2052, Northbrook, IL 60065. Information obtained from the Illinois Secretary of State's website indicates that the Registered Agent for Indiana Properties, Inc. is Kerry Baba, 610 Sheridan Road 3C, Highwood, IL 60040. The information further indicated that Kerry Baba is also the President of this corporation. The property is described as Lot 3 in Block 3 of Aladdin Subdivision in Township 6-4, with a property index number of 2-64-0320-130.

I arrived at the site at 1:25 p.m. The weather conditions were approximately 75 degrees.

Photo 001: There is a large amount of open dumped garbage, refuse, construction/demolition debris and used/waste tires.

Photo 002: There are open dumped used/waste tires; and, water was observed standing in the tire with no rim.

Photo 003: There is open dumped construction/demolition debris in the form of a gutted, non-inhabitable mobile home.

Photo 004: Open dumped refuse and debris is observed, along with open dumped used/waste tires. Water was observed in some of the open dumped used/waste tires.

I left the site at 1:27 p.m.

**VIOLATIONS:**

**ILLINOIS ENVIRONMENTAL PROTECTION ACT**

21(a) No Person Shall Cause or Allow Open Dumping

21(e) No Person Shall Dispose, Treat, Store, or Abandon Any Waste, Or Transport Any Waste Into the State at/to Sites Not Meeting Requirements of Act and Regulations

21(p) No Person Shall 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 (i) General Construction or Demolition Debris as defined in Section 3.160(a); or (ii) Clean Construction or Demolition Debris as defined in Section 3.160(b)

55(a) No Person Shall:

- (1) Cause or Allow Open Dumping of Any Used or Waste Tire

55(k) No Person Shall:

- (1) Cause or Allow Water to Accumulate in Used or Waste Tires

**During the inspection, the open dumping of waste that resulted in litter in the form of refuse, debris, used/waste tires and construction/demolition debris was observed. Further, water was observed accumulating in open dumped used/waste tires.**



## ***DIGITAL PHOTOGRAPHS***



**Date:** 04/15/2013  
**Time:** 1:25 pm  
**Direction:** South  
**Photo by:** R. Tracy  
**Exposure #:** 001  
**Comments:** open  
dumped  
garbage, refuse,  
construction/  
demolition  
debris and  
used/waste tires



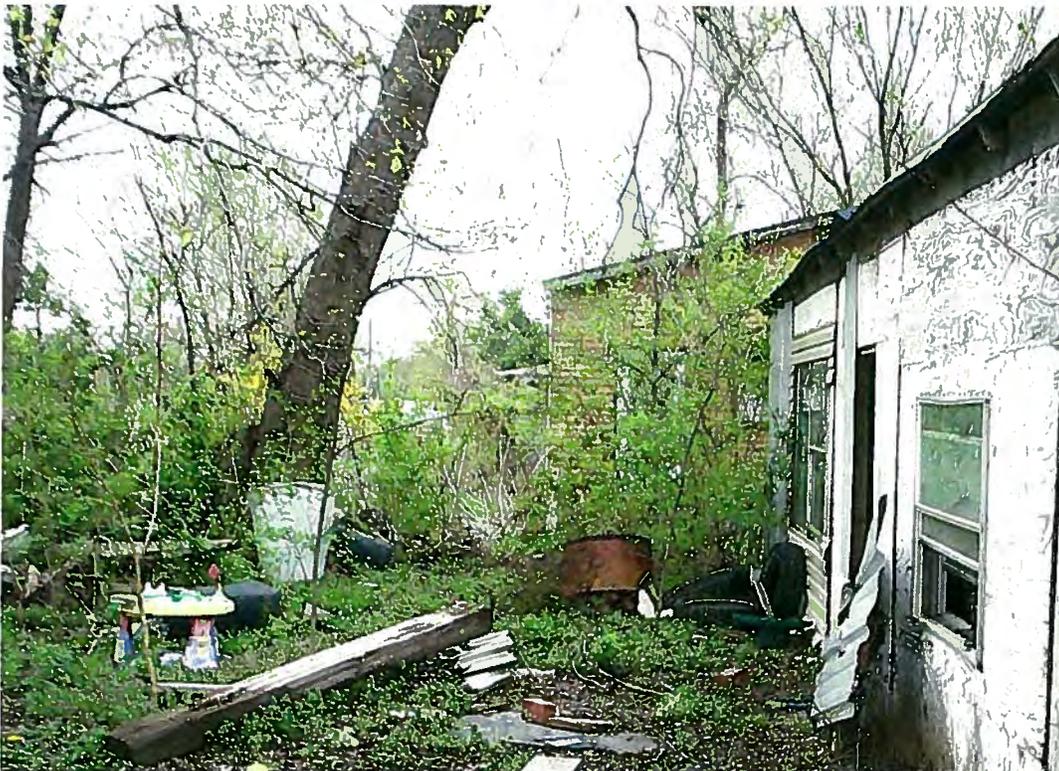
**Date:** 04/15/2013  
**Time:** 1:25 pm  
**Direction:** West  
**Photo by:** R. Tracy  
**Exposure #:** 002  
**Comments:** open  
dumped  
used/waste tires  
with water



## ***DIGITAL PHOTOGRAPHS***



**Date:** 04/15/2013  
**Time:** 1:25 pm  
**Direction:** South  
**Photo by:** R. Tracy  
**Exposure #:** 003  
**Comments:**  
construction/  
demolition debris  
and open dumped  
used/waste tires



**Date:** 04/15/2013  
**Time:** 1:26 p.m.  
**Direction:** South  
**Photo by:** R. Tracy  
**Exposure #:** 004  
**Comments:** open  
dumped refuse and  
debris; and, used/waste  
tires with water

**SITE SKETCH**

**Date of Inspection: 04/15/2013**

**Time: 1:25 p.m. -- 1:27 p.m.**

**Site Code: 14500550227**

**Site Name: Indiana Properties, Inc./Cutler**

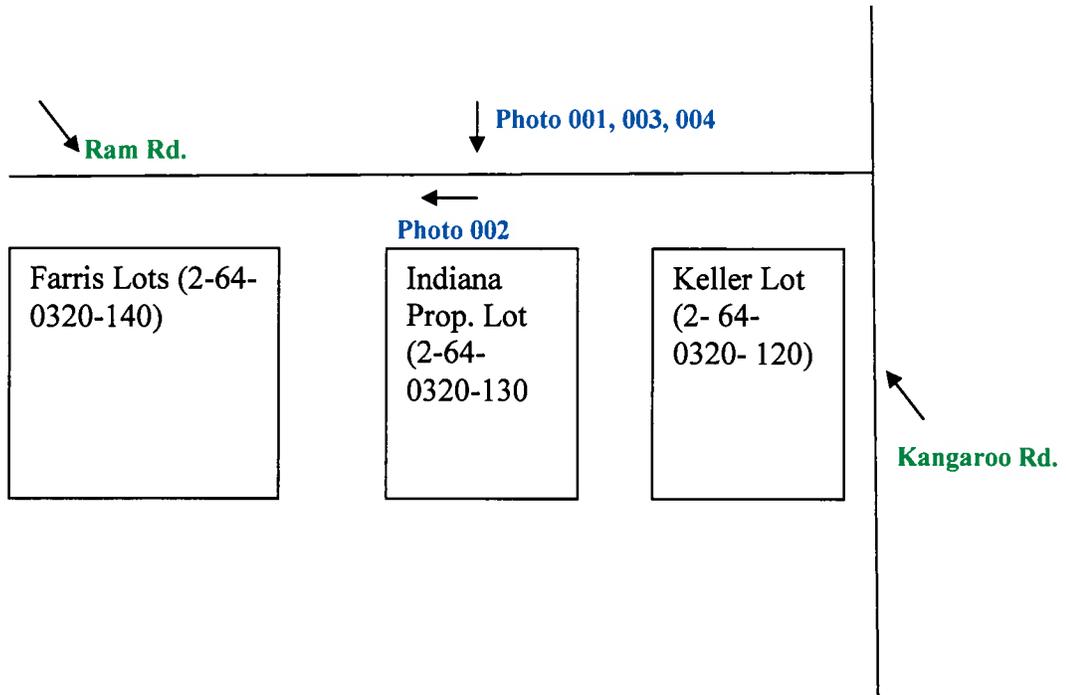
**County: Perry**

**Inspector: Rebecca Tracy**

**Est. Waste Volume: 200 cubic yards**

**Previous Inspection: 09/11/2012**

**N**



**Not Drawn to Scale / All Location Approx. / photo direction →**

OFFICE OF  
**PERRY COUNTY STATE'S ATTORNEY**

Perry County Courthouse • One Public Square  
Pinckneyville, IL 62274

Telephone (618) 357-6221  
FAX (618) 357-3923

*State's Attorney*  
David N. Stanton

*Assistant State's Attorneys*  
Martin M. Beltz  
David H. Searby, Jr.

**RECEIVED**  
CLERK'S OFFICE

MAY 23 2013

STATE OF ILLINOIS  
Pollution Control Board

May 20, 2013

Clerk of the Board  
Illinois Pollution Control Board  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, IL 60601-3218

 ORIGINAL

RE: Administrative Citation – Perry County/Indiana Properties, Inc.  
Site Code: 1450055027  
Inspection Date: April 15, 2013

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Indiana Properties, Inc. The Respondent's Registered Agent, Kerry Baba's, mailing address is 610 Sheridan Road 3C, Highwood, IL 60040.

I will file proof of service once that is obtained on Respondent. Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,



David Searby  
Assistant State's Attorney  
Perry County, Illinois

Enclosures

cc: Rebecca Tracy, Perry County Solid Waste w/enclosures  
IEPA Springfield (Ellen Robinson w/enclosures)  
IEPA Marion (Sheila Williams w/enclosures)