

RECEIVED
CLERK'S OFFICE

SEP 18 2006

STATE OF ILLINOIS
Pollution Control Board

AC07-16

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 James R. Thompson 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**.

Any person other than individuals **MUST** appear through an attorney-at-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 Ill. Adm. Code 101.400(a).

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
SEP 18 2006
STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
DENNIS BALLINGER,)
)
Respondent.)

AC 07-16
(IEPA No. 253-06-AC)

NOTICE OF FILING

To: Dennis Ballinger
P.O. Box 1452
Decatur, Illinois 62525

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: September 15, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

SEP 18 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,))
))
v.))
))
DENNIS BALLINGER,))
))
))
))
Respondent.))

AC 09-16
(IEPA No. 253-06-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 (2004).

FACTS

1. That Dennis Ballinger ("Respondent") is the present owner of a facility located at 527 N. High Street, Paris, Edgar County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Paris/Farr-Ballinger.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0450305105.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on August 8, 2006, Curt White of the Illinois Environmental Protection Agency's Champaign 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 Curt White during the course of his August 8, 2006 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) (2004).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), 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 October 15, 2006, 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 (2004), 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) (2004), 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 (2004). 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.

Douglas P. Scott
Douglas P. Scott, Director *by wec*
Illinois Environmental Protection Agency

Date: 9/15/06

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

LPC # 0450305105-Edgar County

Inspection Date: 8/8/2006

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input 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 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"/>

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 ♦ Field Operations Section ♦ Champaign

LPC #0450305105–Edgar County
Paris / Farr-Ballinger
FOS
Inspector: Curt White
Insp. Date: 8/8/2006
Complaint # C06-101-CH

INSPECTION REPORT NARRATIVE

Curt White of DLPC/FOS Champaign Regional Office reinspected this site on August 8, 2006. The weather conditions during this inspection were cloudy and 75° F. No interviews were conducted during this inspection. The initial inspection was conducted as a result of a citizen complaint.

The site is located at 527 N. High Street, Paris, IL. According to the Edgar County Supervisor Office in Paris, IL the site was sold on January 27, 2006 to Edwin Farr. The mailing address for Mr. Farr is 200 Reichman, Joliet, IL 60433. The previous owner was Dennis Ballinger. The mailing address for Dennis Ballinger Real Estate is 119 E. William Street-Suite 300, PO Box 1452, Decatur, IL 62525. According to the complainant, the waste material at the site was there before January 27, 2006 so both the current and former owner will be a respondent. The previous tenant is unknown. A "Tax Deed" and a "Quit Claim Deed" are attached with this report.

This inspection was conducted in accordance with Sections 4(c) and (d) of the Illinois Environmental Protection Act ("Act"). The purpose of this inspection was to determine if the site is in compliance with the Act and Regulations.

SITE HISTORY

I (Curt White) initially inspected the site on March 20, 2006. I arrived on the property at 11:10 am and knocked on the door at the residence at the site. Nobody answered the door. According to the complainant, nobody resides at the site. I proceeded to the area described by the complainant. The entire back yard was covered with used tires, cans, lumber, three junk vehicles, bags of trash and other general refuse. I left the site at 11:25 am.

An Administrative Citation Warning Notice (ACWN) was sent to Mr. Ballinger and Mr. Farr on April 18, 2006. According to the U.S. Postal Service Certified Mail Receipt Mr. Ballinger received his ACWN on April 20, 2006. Mr. Farr's ACWN was returned to sender because the letter was "attempted, not known". The ACWN was resent "U.S. First Class Mail" and not returned. The deadline for the cleanup was August 1, 2006. No response was received by either Mr. Ballinger or Mr. Farr.

AUGUST 8, 2006 INSPECTION FINDINGS

I arrived on the property at 10:10 am. There was no change at the site. No waste was removed or added. The entire back yard was covered with used tires, cans, lumber, three junk vehicles, bags of trash, other general refuse which was dumped haphazardly in weeds (see photos 1 thru 9). I left the site at 10:25 am.

Summary of Violations

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 ½, 1001 et. seq.) {hereinafter called the "Act"}

1. Pursuant to Section 21(a) of the Act. No one shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **Evidence of open dumping of waste was observed at the site during the inspection.**

2. Pursuant to Section 21(e) of the Act. No person shall dispose, treat, store, or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment except at a site or facility which meets the requirements of the Act and of Regulations and Standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **Evidence of wastes disposal was observed during the inspection of the site, which does not meet the requirements of the Act and regulations thereunder.**

3. Pursuant to Section 21(p)(1) of the Act. No one shall cause or allow the open dumping of any waste in a manner, which results in litter at the dumpsite.

A violation of Section 21(p)(1) is alleged for the following reason: **Evidence of open dumping of waste was observed at this site, which resulted in litter.**

4. Pursuant to Section 55(a)(1) of the [Illinois] Environmental Protection Act (415 ILCS 5/55(a)(1)), no person shall cause or allow the open dumping of any used or waste tire.

A violation of Section 55(a)(1) is alleged for the following reason: **Evidence of open dumping of used or waste tires was observed during the inspection.**

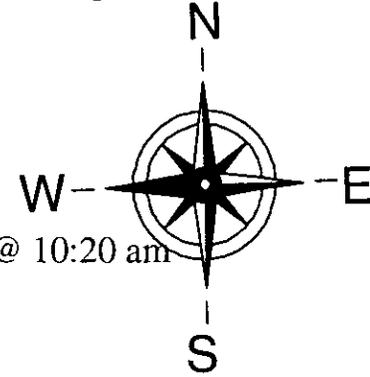
Illinois Environmental Protection Agency

LPC # 0450305105--Edgar County

Paris / Farr-Ballinger

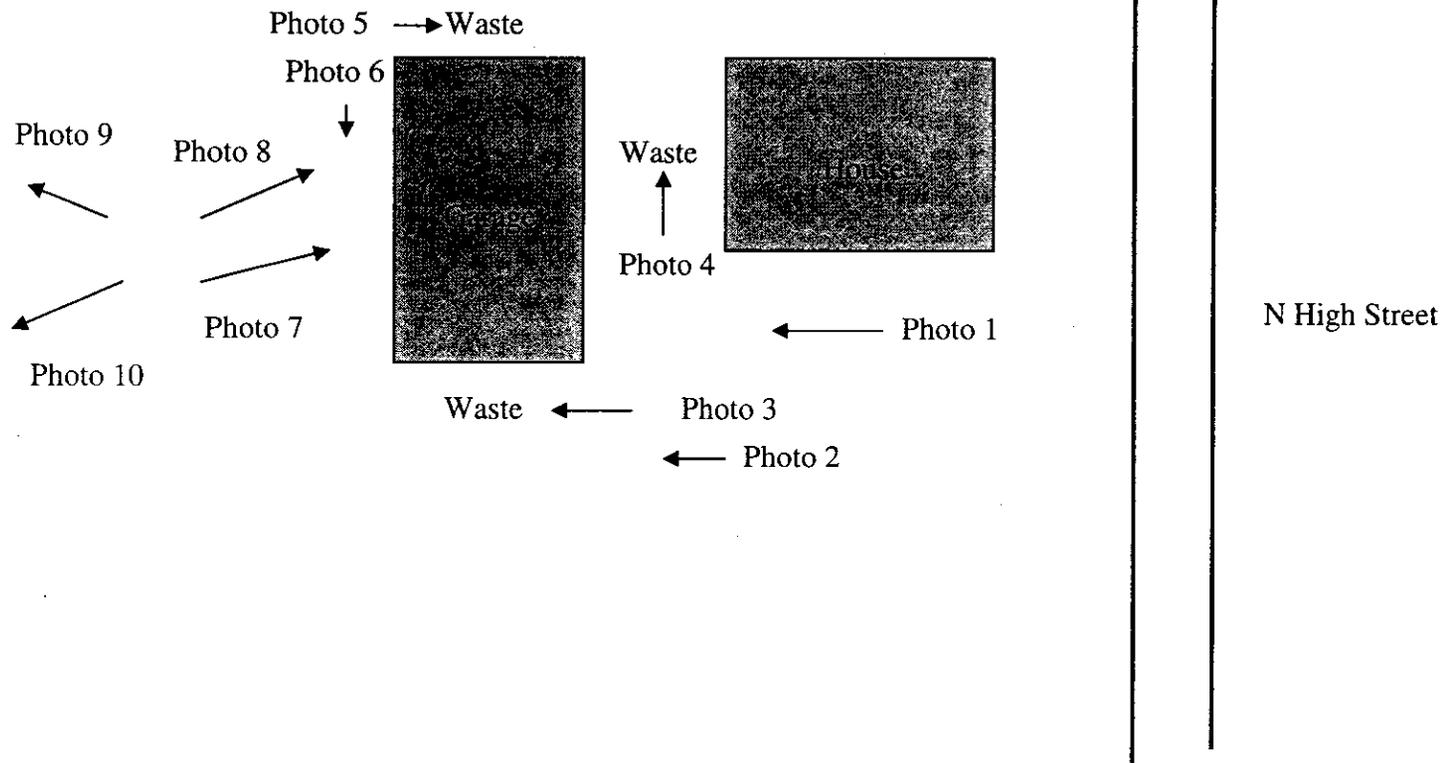
Insp. Date 8 / 8 / 06

Site Map



Site Photos

- | | | |
|-----------------------|-----------------------|-------------------------|
| 1. Photo 1 @ 10:15 am | 4. Photo 4 @ 10:16 am | 7. Photo 7 @ 10:19 am |
| 2. Photo 2 @ 10:16 am | 5. Photo 5 @ 10:16 am | 8. Photo 8 @ 10:19 am |
| 3. Photo 3 @ 10:16 am | 6. Photo 6 @ 10:17 am | 9. Photo 9 @ 10:20 am |
| | | 10. Photo 10 @ 10:20 am |



Map not to Scale
Arrows indicated direction
and location of Photos



Illinois Environmental Protection Agency
Bureau of Land

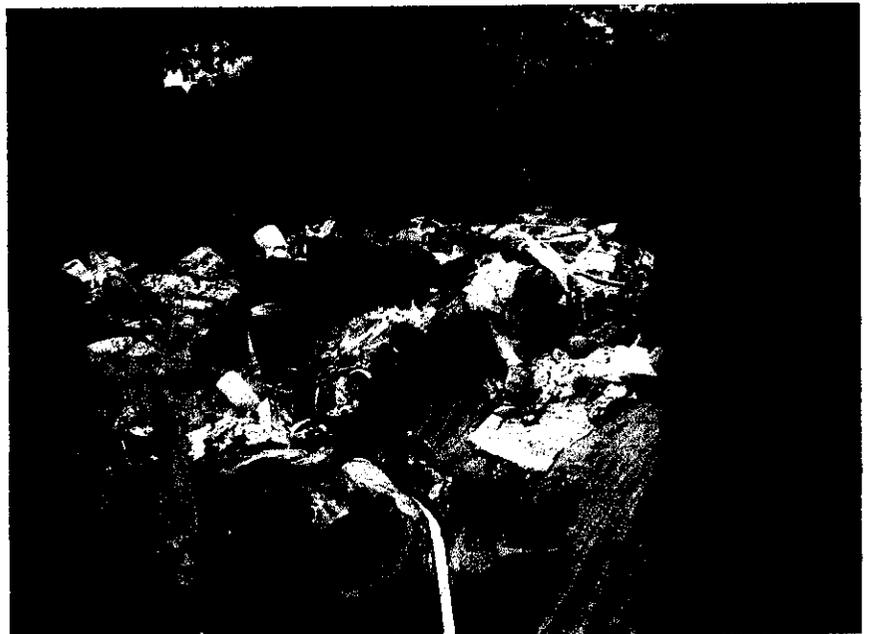
DIGITAL PHOTOGRAPHS

**LPC # 0450305105 — Edgar County
Paris / Farr-Ballinger
FOS File**

**DATE: 8-8-2006
TIME: 10:15 AM
DIRECTION: West
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-001.jpg
COMMENTS:**



**DATE: 8-8-2006
TIME: 10:16 AM
DIRECTION: West
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-002.jpg
COMMENTS:**





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 0450305105 — Edgar County
Paris / Farr-Ballinger
FOS File

DATE: 8-8-2006
TIME: 10:16 AM
DIRECTION: West
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-003.jpg
COMMENTS:



DATE: 8-8-2006
TIME: 10:16 AM
DIRECTION: North
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-004.jpg
COMMENTS: Used tires,
appliances





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC # 0450305105 — Edgar County
Paris / Farr-Ballinger
FOS File

DATE: 8-8-2006
TIME: 10:17 AM
DIRECTION: East
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-005.jpg
COMMENTS: Used tires and
other material in weeds.



DATE: 8-8-2006
TIME: 10:17 AM
DIRECTION: South
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-006.jpg
COMMENTS: Used tires, big
wheel and other material in
weeds.





Illinois Environmental Protection Agency
Bureau of Land

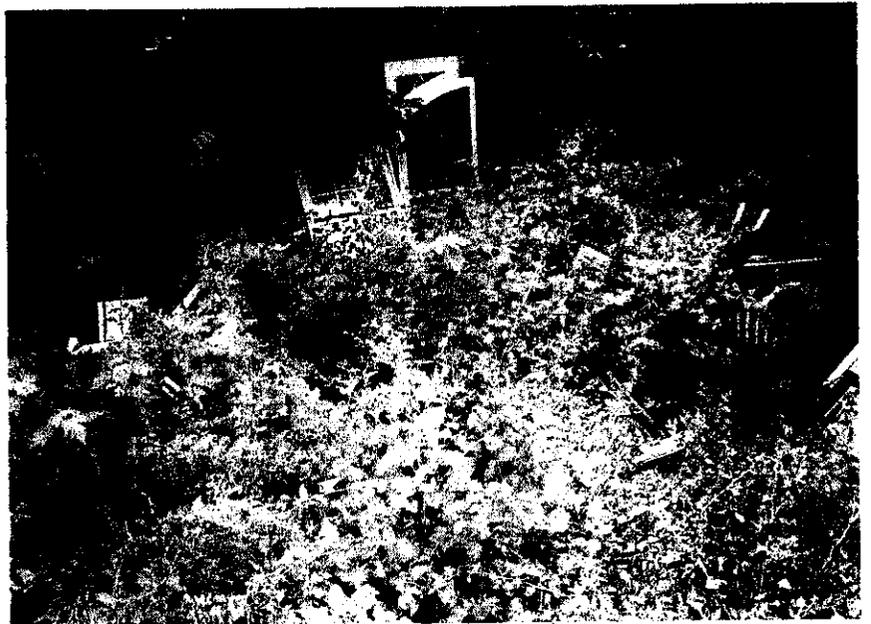
DIGITAL PHOTOGRAPHS

LPC # 0450305105 — Edgar County
Paris / Farr-Ballinger
FOS File

DATE: 8-8-2006
TIME: 10:19 AM
DIRECTION: East
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-007.jpg
COMMENTS: Windows,
fencing and other material in
weeds.



DATE: 8-8-2006
TIME: 10:19 AM
DIRECTION: East
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-008.jpg
COMMENTS: Windows,
fencing and other material in
weeds.





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

**LPC # 0450305105 — Edgar County
Paris / Farr-Ballinger
FOS File**

**DATE: 8-8-2006
TIME: 10:20 AM
DIRECTION: West
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-009.jpg
COMMENTS: Automobile in
weeds.**



**DATE: 8-8-2006
TIME: 10:20 AM
DIRECTION: West
PHOTO by: Curt White
PHOTO FILE NAME:
0450305105~08082006-010.jpg
COMMENTS: Lawnmower in
weeds.**



PROOF OF SERVICE

I hereby certify that I did on the 15th day of September 2006, 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: Dennis Ballinger
P.O. Box 1452
Decatur, Illinois 62525

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



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