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STATE OF ILLINOIS
Pollution Control Board

AC10-9

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

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DEC 04 2009

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
TONY A. LUTTRELL,)
)
Respondent.)

AC 10-9

(IEPA No. 293-09-AC)

NOTICE OF FILING

To: Tony A. Luttrell
642 Honey Locust Lane
Xenia, IL 62899

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
Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: December 1, 2009

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
 AGENCY,)
)
 Complainant,)
)
 v.)
)
 TONY A. LUTTRELL,)
)
 Respondent.)

AC 10-9
 (IEPA No. 293-09-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 (2008).

FACTS

1. That Tony A. Luttrell ("Respondent") is the present owner and operator of a facility located at approximately 800 North Aspen Road, Xenia, Clay County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency ("Illinois EPA") as Xenia/Luttrell, Tony A. and Crystal K. (northeast).

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0258095001.

3. That Respondent has owned and operated said facility at all times pertinent hereto.

4. That on October 27, 2009, Garrison Gross of the Illinois EPA'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.

5. That on December 1, 2009, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 3020 0002 3214 4289.

VIOLATIONS

Based upon direct observations made by Garrison Gross during the course of his October 27, 2009 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) (2008).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of clean or general construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2008).

CIVIL PENALTY

On May 2, 2002, and September 5, 2002, the Board found Tony A. Luttrell in violation of Sections 21(p)(1) and 21(p)(7) of the Act in AC 02-48 and AC 03-01.

Because this Administrative Citation addresses a second or subsequent violation of Sections 21(p)(1) and 21(p)(7) of the Act, pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondent is subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for each of the violations identified above, for a total of Six Thousand Dollars (\$6,000.00). 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 December 31, 2009, 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 (2008), 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 Three Thousand Dollar (3,000.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2008), 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 (2008). 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 Scott
Douglas Scott, Director
Illinois Environmental Protection Agency

Date: December 1, 2009

Prepared by: Michelle M. Ryan, Assistant Counsel
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.)
)
TONY A. LUTTRELL,)
)
Respondent.)

AC 10-9
(IEPA No. 293-09-AC)

FACILITY: Xenia/Luttrell SITE CODE NO.: 0258095001
COUNTY: Clay CIVIL PENALTY: \$6,000
DATE OF INSPECTION: October 27, 2009
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

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)
)
 Complainant,)
)
 vs.)
)
 Tony A. & Crystal K. Luttrell and)
 Luttrell Backhoe, Inc.)
)
)
 Respondents)

IEPA DOCKET NO.
293-09-AC

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 October 27, 2009, between 10:40 AM and 11:00 AM, Affiant conducted an inspection of a disposal site operated by Tony A. & Crystal K. Luttrell located in Clay County, Illinois, and known as Xenia / Luttrell, Tony A. & Crystal K. (northeast) by the Illinois Environmental Protection Agency. Said site has been assigned site code number 0258095001 by the Agency.

3. Affiant inspected said Xenia / Luttrell, Tony A. & Crystal K. (northeast) 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 Xenia / Luttrell, Tony A. & Crystal K (northeast).

Garrison Grob

Subscribed and Sworn to before me

this 29 day of October, 2009

Marcia A. English
Notary Public

GRG



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Clay LPC#: 0258095001 Region: 7 - Marion
 Location/Site Name: Xenia / Luttrell, Tony A. & Crystal K. (northeast)
 Date: 10/27/2009 Time: From 10:40 AM To 11:00 AM Previous Inspection Date: 08/13/2003
 Inspector(s): Garrison Gross Weather: overcast skies, drizzle, 55°F, light breeze
 No. of Photos Taken: # 9 Est. Amt. of Waste: 200 yds³ Samples Taken: Yes # No
 Interviewed: Tony Luttrell & Rex Brown Complaint #: C-10-046-M

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

Tony A. & Crystal K. Luttrell
 642 Honey Locust Lane
 Xenia, IL 62899
 618-676-2798

Luttrell Backhoe, Inc.
 Attn: Tony A. Luttrell
 400 Presley Street
 Flora, IL 62839
 618-662-8800

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 Pollution Control Board

	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 # 0258095001

Inspection Date: 10/27/2009

	(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"/>

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
Narrative Inspection Report

Site #: 0258095001 – Clay County

Site Name: Xenia / Luttrell, Tony A. & Crystal K. (northeast)

Township: Songer Township

Date of Inspection: October 27, 2009

Inspector(s): Garrison Gross

Subject: Open Dump Site Inspection at Tony A. & Crystal K. Luttrell (northeast) Property

General Remarks: An Open Dump Site Inspection was conducted on Tuesday, October 27, 2009, at the property of Tony A. & Crystal K. Luttrell. Garrison Gross of the Illinois EPA Bureau of Land conducted the inspection. The property is located at ~800 North Aspen Road, Xenia, Illinois 62899. The inspection was performed as a follow up to a complaint (C-10-046-M) alleging open dumping and burial of demolition waste. The inspection began at approximately 10:40 AM. Weather conditions at the time of the inspection were overcast skies, drizzle, 55° F, and a light breeze.

Inspection Findings: The Inspector located the site and observed a lowboy trailer (plate # 8330 T/K) parked along Aspen Road. A tandem dump truck (plate # 16655 Q) was observed and it was backing down a gravel road on the property. A trackhoe was observed further south on the property. Upon entering the site, construction / demolition debris was observed along the east property boundary (photo 001). The inspector parked the vehicle due to the wet conditions and continued on foot. The inspector spoke to the driver of the tandem truck. He identified himself as Rex Brown. The Inspector identified himself and explained the reason for the inspection. Mr. Brown suggested that I speak with the owner in the trackhoe. The door of the tandem truck was labeled "Luttrell Backhoe".

The Inspector spoke to the operator of the Caterpillar 312 C trackhoe. He identified himself as Tony Luttrell. The Inspector identified himself and explained the reason for the inspection. Mr. Luttrell stated that he was demolishing a house and was under the impression that waste could be buried at the site. The Inspector informed him that Illinois EPA Regulations did not allow the burial of construction / demolition waste. He was informed that clean concrete, brick and soil could be used as fill material, but that pits should not be excavated for disposal purposes. He was informed that applications such as filling in an old basement or leveling a low area were acceptable uses and clean concrete could be crushed and reused as an aggregate. The Inspector explained that larger excavations; such as ponds, lakes, quarries and mines required a permit prior to filling with clean demolition debris. It was reiterated that digging pits and burying waste was a violation. Mr. Luttrell admitted that approximately one tandem load of brick had been buried further south at the site. The Inspector requested that Mr. Luttrell cease open dumping of construction / demolition waste and haul the waste to a permitted landfill for disposal. Mr. Luttrell estimated that seven (7) roll off boxes of waste were present at this location and the demolition site. The Inspector informed him that he would be receiving a letter from the Agency in a few days and that landfill receipts would be required to document compliance.

The Inspector continued the inspection by walking and photographing the site. A large pile of demolition waste was observed. The pile measured approximately 55 x 12 x 5 feet (photos 002-

Page 2

LPC #0258095001

Xenia / Luttrell, Tony A. & Crystal K. (northeast)

October 27, 2009

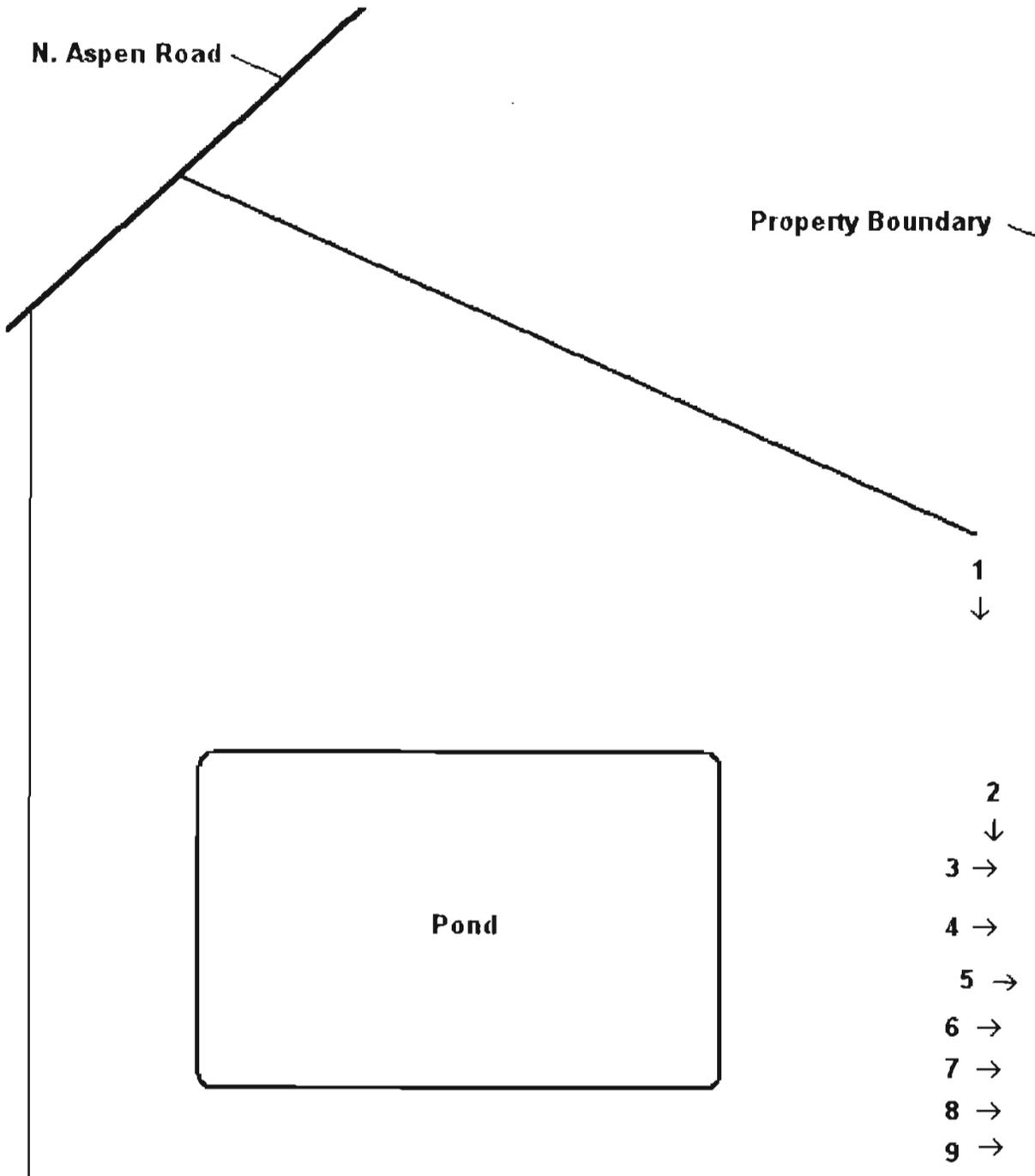
004). Wastes including but not limited to dimensional lumber, plywood, tar paper, shingles, linoleum and carpeting were observed. Evidence of waste burial was observed (photo 005). Concrete blocks, shingles, dimensional lumber, and plywood were observed in a shallow excavated pit. Smaller piles of demolition waste were observed nearby and contained dimensional lumber, plywood, concrete blocks and pipe (photos 006-008). Evidence of additional waste burial was observed further south along the property boundary (photo 009). Recently excavated soil was higher than the surrounding area. Approximately 150 cubic yards of demolition waste were observed but it is estimated that approximately 200 cubic yards of demolition waste is located at the site, including waste that is buried. The inspection ended at approximately 11:00 AM

Additional Remarks: Information concerning property ownership / control was obtained through tax records from the Supervisor of Assessment's Office in Clay County. Tony A. & Crystal K. Luttrell were identified as the owners of the property and tax bills are mailed to 642 Honey Locust Lane, Xenia, Illinois, 62899. The property is referred to as parcel 09-34-400-003 and contains approximately 14.89 acres. The waste was being transported from property owned by Wanda Brinkley, 7748 Old Highway 50, Flora, Illinois 62839. That property is referred to as parcels 10-27-403-005 and 10-27-400-038.



State of Illinois
ENVIRONMENTAL PROTECTION AGENCY
Inspection Site Sketch

Date: October 27, 2009
Site #: 0258095001 – Clay County
Site Name: Xenia / Luttrell, Tony A. & Crystal K.
Township: Songer
Inspector(s): Garrison Gross
Not Drawn to Scale: *All Locations Are Approximate*





DIGITAL PHOTOGRAPHS



Date: 10/27/2009
Time: 10:43 AM
Direction: South
Photo by: Garrison Gross
Exposure #: 001
Comments: Photograph
of truck, trackhoe and
waste.



Date: 10/27/2009
Time: 10:55 AM
Direction: South
Photo by: Garrison Gross
Exposure #: 002
Comments: Photograph
of demolition waste.

File Names: 0258095001~10272009-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 10/27/2009
Time: 10:55 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 003
Comments: Photograph
of demolition waste.



Date: 10/27/2009
Time: 10:55 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 004
Comments: Photograph
of demolition waste

File Names: 0258095001~10272009-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 10/27/2009
Time: 10:57 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 005
Comments: Photograph
of demolition waste in an
excavated pit.



Date: 10/27/2009
Time: 10:57 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 006
Comments: Photograph
of demolition waste.

File Names: 0258095001~10272009-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 10/27/2009
Time: 10:57 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 007
Comments: Photograph
of demolition waste.



Date: 10/27/2009
Time: 10:57 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 008
Comments: Photograph
of demolition waste.

File Names: 0258095001~10272009-[Exp. #].jpg



DIGITAL PHOTOGRAPHS



Date: 10/27/2009
Time: 10:57 AM
Direction: East
Photo by: Garrison Gross
Exposure #: 009
Comments: Photograph
of area where waste
burial occurred.

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STATE OF ILLINOIS
Pollution Control Board

PROOF OF SERVICE

I hereby certify that I did on the 1st day of December 2009, 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: Tony A. Luttrell
642 Honey Locust Lane
Xenia, IL 62899

ORIGINAL

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

To: John Therriault, 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