

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUN 2 2003

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
SHARYN FULLER and CARL BENEDICT)
d/b/a Benedict Auto Sales,)
))
Respondents.)

AC 03-32
(IEPA No. 250-03-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 Sharyn Fuller is the present owner and Carl Benedict is the operator (collectively "Respondents") of a facility located on the southwest side of the intersection of Pottstown Road and Kickapoo Creek Road, Kickapoo Township, Peoria County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Fuller, Sharyn.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1438075011.
3. That Respondents have owned and operated said facility at all times pertinent hereto.
4. That on March 31, 2003, Gene Figge of the Illinois Environmental Protection Agency's Peoria 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 Gene Figge during the course of his March 31, 2003 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondents are 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 Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 15, 2003, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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, Respondents 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 Respondents fail to petition or elect 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, Respondents' 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondents have 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 Respondents elect to contest this Administrative Citation, then Respondents 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 *Ry*
Illinois Environmental Protection Agency

Date: 5/28/03

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

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
SHARYN FULLER and CARL BENEDICT)
d/b/a Benedict Auto Sales,)
)
Respondents.)

AC
(IEPA No. 250-03-AC)

FACILITY: Fuller, Sharyn

SITE CODE NO.: 1438075011

COUNTY: Peoria

CIVIL PENALTY: \$1,500.00

DATE OF INSPECTION: March 31, 2003

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF)

Sharyn Fuller)
Carl Benedict)

IEPA DOCKET NO. 250-03-AC

RESPONDENT)

Affiant, R. Eugene Figge, 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 March 31, 2003, between 9:30 a.m. and 9:50 a.m., Affiant conducted an inspection of the open dump in Peoria County, Illinois, known as Fuller, Sharyn, Illinois Environmental Protection Agency Site No. 1438075011.

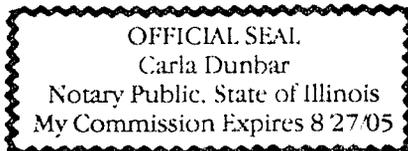
3. Affiant inspected said Fuller, Sharyn open dump site by an on-site inspection, which included walking and photographing the site.

4. As a result of the activities 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 Fuller, Sharyn open dump.

R. Eugene Figge

Subscribed and Sworn to before me this 3rd day of April

Carla Dunbar
Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Peoria LPC#: 1438075011 Region: 3 - Peoria
 Location/Site Name: Kickapoo Twp./Fuller, Sharyn
 Date: 03/31/2003 Time: From 9:30 am To 9:50 am Previous Inspection Date: 11/12/2002
 Inspector(s): R. Eugene Figge Weather: 45 F
 No. of Photos Taken: # 15 Est. Amt. of Waste: 100 yds³ Samples Taken: Yes # No
 Interviewed: No One On Site Complaint #:

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

Sharyn Fuller
 9624 West Maple Road
 Mapleton, Illinois 61547

Benedict Auto Sales
 Attention: Carl Benedict
 2500 West Farmington Road
 West Peoria, Illinois 61604
 309/637-0131

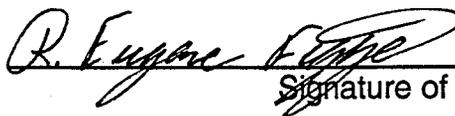
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	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a)	CAUSE, THREATEN 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 # 1438075011

Inspection Date: 03/31/2003

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



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.

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NARRATIVE

On March 31, 2003, a reinspection was conducted from 9:30 a.m. until 9:50 a.m. at Fuller, Sharyn by R. Eugene Figge (this author) of DLPC/FOS - Peoria. The used tire notification form has not been submitted. The annual fee has not been paid. In a telephone conversation Carl Benedict stated that he would remove the rest of the tires from the site by the end of March.

On the site it was observed that approximately 200 used tires remained. These tires were located in an over grown area toward the rear of the property as shown in photographs 9 through 13. - Some of the used tires had been moved to the front of the property for ease of access as shown in photographs 1 through 4. There were also several accumulations of general refuse as shown in photographs 5 and 6. Various old vehicles were also located around the property. The property is located between Kickapoo Creek and the railroad tracks in Pottstown.

The following apparent violations were indicated on the inspection checklist:

Section 21(a) of the Act - cause or allow open dumping.

Section 21(d) of the Act - conduct any waste-storage, waste-treatment, or waste disposal operation:

- (1) Without a permit.
- (2) In violation of any regulation or standards adopted by the Board.

Section 21(e) of the Act - dispose, treat, store, or abandon any waste, or transport any waste into the state at/to sites not meeting requirements of the Act and Regulations.

Section 21(p) of the Act - 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.

Section 55(a) of the Act - no person shall:

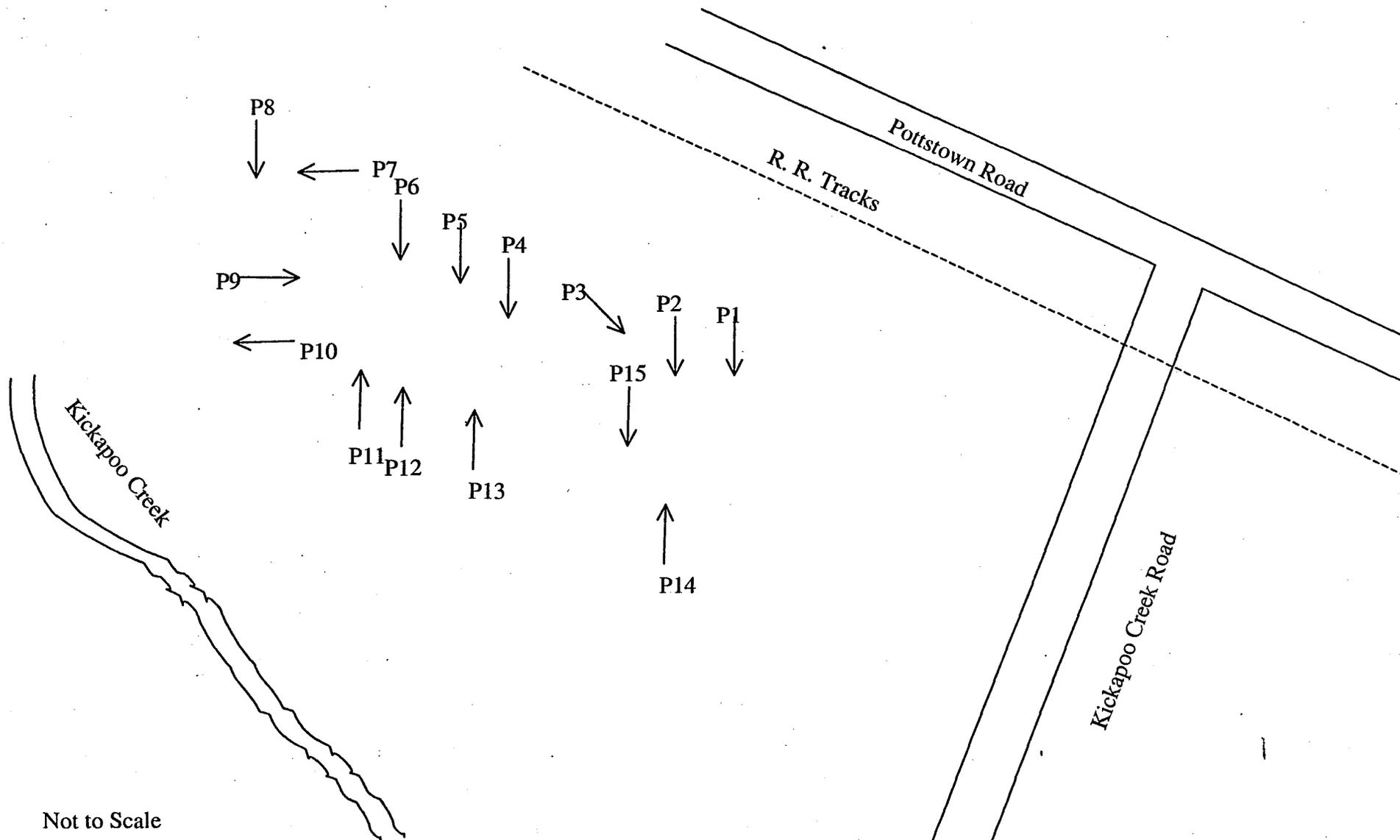
- (1) Cause or allow open dumping of any used or waste tire.

Section 812.101(a) of the Regulations - failure to submit an application for a permit to develop and operate a landfill.

State of Illinois Environmental Protection Agency Site Sketch

Inspector: R. Eugene Figge
Date of Inspection: March 31, 2003
Site Name: Fuller, Sharyn

LPC #: 1438075011
County: Peoria
Time: 9:30 a.m. - 9:50 a.m.



Not to Scale

DATE: March 31, 2003

TIME: 9:36 a.m.

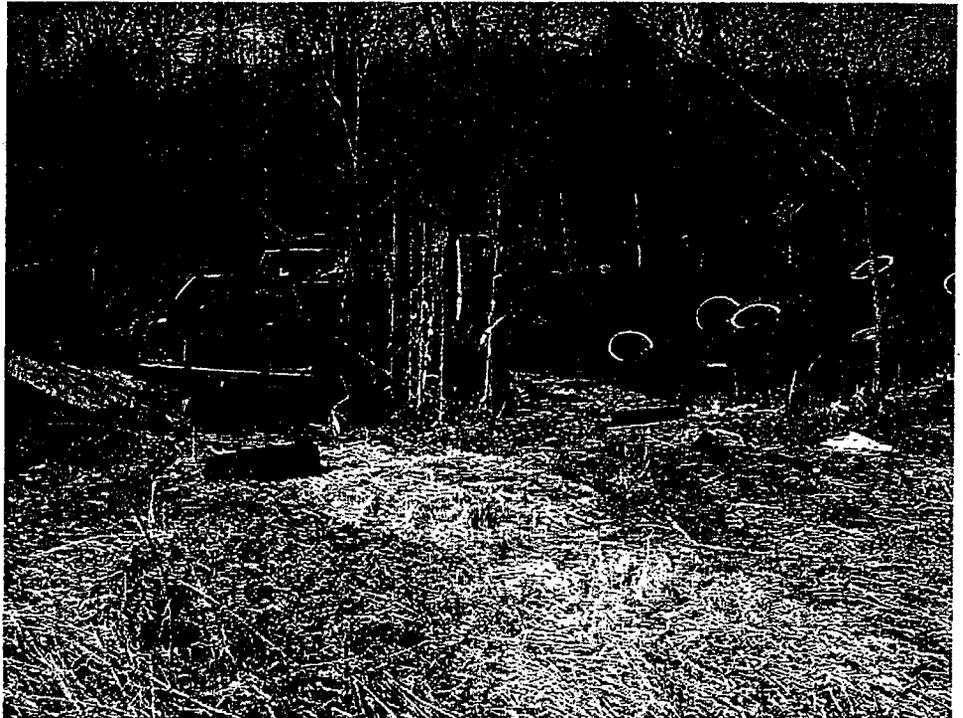
PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 1

FILE NAME:
1438075011~03312003-001.jpg



DATE: March 31, 2003

TIME: 9:37 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 2

FILE NAME:
1438075011~03312003-002.jpg



DATE: March 31, 2003

TIME: 9:37 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 3

FILE NAME:
1438075011~03312003-003.jpg



DATE: March 31, 2003

TIME: 9:37 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 4

FILE NAME:
1438075011~03312003-004.jpg



DATE: March 31, 2003

TIME: 9:37 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 5

FILE NAME:
1438075011-03312003-005.jpg



DATE: March 31, 2003

TIME: 9:37 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 6

FILE NAME:
1438075011-03312003-006.jpg



DATE: March 31, 2003

TIME: 9:38 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the west.

PHOTOGRAPH NUMBER: 7

FILE NAME:
1438075011~03312003-007.jpg



DATE: March 31, 2003

TIME: 9:38 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 8

FILE NAME:
1438075011~03312003-008.jpg



DATE: March 31, 2003

TIME: 9:38 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 9

FILE NAME:
1438075011~03312003-009.jpg



DATE: March 31, 2003

TIME: 9:38 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the west.

PHOTOGRAPH NUMBER: 10

FILE NAME:
1438075011~03312003-010.jpg



DATE: March 31, 2003

TIME: 9:39 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 11

FILE NAME:
1438075011~03312003-011.jpg



DATE: March 31, 2003

TIME: 9:39 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 12

FILE NAME:
1438075011~03312003-012.jpg



DATE: March 31, 2003

TIME: 9:40 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 13

FILE NAME:
1438075011~03312003-013.jpg



DATE: March 31, 2003

TIME: 9:40 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 14

FILE NAME:
1438075011~03312003-014.jpg



DATE: March 31, 2003

TIME: 9:40 a.m.

PHOTOGRAPHED BY:
R. Eugene Figge

LOCATION:
1438075011 -- Peoria County
Fuller, Sharyn

COMMENTS: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 15

FILE NAME:
1438075011~03312003-015.jpg

