



OFFICE OF STATE'S ATTORNEY

DAVID N. STANTON
State's Attorney

Perry County, Illinois
1 Public Square – Perry County Courthouse
Pinckneyville, Illinois 62274
Telephone: (618) 357-6221 / Facsimile: (618) 357-3923

MARTIN M. BELTZ
DAVID H. SEARBY, JR.
Assistant State's Attorneys

June 14, 2013

RECEIVED
CLERK'S OFFICE

JUN 18 2013

STATE OF ILLINOIS
Pollution Control Board

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

AC 13-57

RE: Administrative Citation – Perry County/Keene, Donald and Pam
Site Code: 1450155055
Inspection Date: May 21, 2013



ORIGINAL

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Donald and Pam Keene.

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)
City of Pinckneyville w/enclosures

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STATE OF ILLINOIS
Pollution Control Board

Respondents.

AC 13 -

To: Donald and Pam Keene, 103 East Laurel Street, Pinckneyville, IL 62274.

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: June 19, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY

Complainant,

vs.

Donald and Pam Keene,

Respondents.

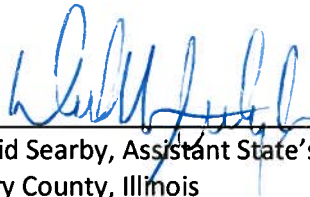
AC 13 -

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JUN 18 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
(618) 357-6221

DATED: June 14, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY

Complainant,

vs.

Donald and Pam Keene,

Respondents.

AC 13 -

57

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JUN 18 2013
STATE OF ILLINOIS
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 Respondents, Donald and Pam Keene , are the present owners; and are in control and possession of a facility located in the County of Perry, State of Illinois.
2. The facility is an open dump and designated with the Site Code #1450155055. The facility is known to the Agency as the Pinckneyville/Keene, Donald and Pam site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On May 21, 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 May 15, 2013, 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/demolition debris at the facility in violations of 415 5/21(p)(7)

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 Three Thousand Dollars (\$3,000.00). 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 August 15, 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 violations(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

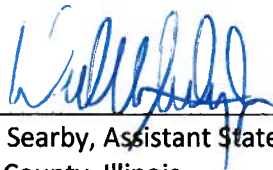
Respondent has the right to contest this Administrative Citation pursuant to and in accordance with 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition 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: June 14, 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.

Donald and Pam Keene,

Respondents.

AC 13 -

57

RECEIVED
CLERK'S OFFICE
JUN 18 2013
STATE OF ILLINOIS
Pollution Control Board

FACILITY: Pinckneyville/Keene, Donald and Pam

COUNTY: Perry

DATE OF INSPECTION: May 21, 2013

SITE CODE: 1450155055

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.

Donald and Pam Keene,

Respondents.

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AC 13 -

51

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STATE OF ILLINOIS
Pollution Control Board

FACILITY: Pinckneyville/Keene, Donald and Pam

COUNTY: Perry

DATE OF INSPECTION: May 21, 2013

SITE CODE: 1450155055

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

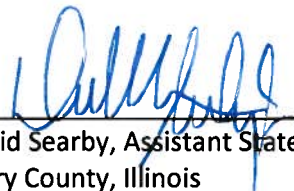
I hereby certify that I did on the 14th day of June 2013, transmit to the Perry County Sheriff's Department a true and correct copy of the following instruments(s) entitled ADMINISTRATIVE CITATION, AFFIDAVITS, OPEN DUMP INSPECTION CHECKLIST, OPEN DUMP NARRATIVE, SITE SKETCH AND PHOTO SHEETS, which will be served upon the following:

To: Donald and Pam Keene
103 East Laurel Street
Pinckneyville, IL 62274

RECEIVED
CLERK'S OFFICE
JUN 18 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

COUNTY OF PERRY

AC 13 - _____

Donald and Pam Keene,

Respondents.

Rebecca Tracy
REBECCA TRACY, Environmental Compliance Inspector

Subscribed and Sworn to before me this
14 day of June, 2013.

Notary Public



Open Dump Inspection Checklist

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

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS

LPC # 1450155055

Inspection Date: 05/21/2013

| | | | |
|--|------------|--|-------------------------------------|
| 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 type="checkbox"/> |
| | (4) | Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements | <input type="checkbox"/> |
| ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT REQUIREMENTS | | | |
| 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"/> |
| 35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G | | | |
| 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"/> |
| OTHER REQUIREMENTS | | | |
| 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

- [Illinois] Environmental Protection Act: 415 ILCS 5/1 et seq.; and The Electronic Products Recycling and Reuse Act: 415 ILCS 150/5 et seq.
- 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, 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.

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

Site #: 1450155055

Date: 05/21/2013

County: Perry

Inspector: Rebecca Tracy

**Subject: Donald and Pam Keene
103 East Laurel
Pinckneyville, IL 62274**

**Site Address: 106 North Locust Street
Pinckneyville, IL 62274**

On May 21, 2013, an open dump inspection was performed at 106 North Locust Street, Pinckneyville, IL 62274. The inspection was performed as a compliance inspection. The GIS coordinates indicated 38°00.965N and 089°14.319W. The weather was approximately 80 degrees, cloudy and raining off and on during the inspection.

The information obtained from the Perry County Assessor's office indicates that the owners of the property are Donald and Pam Keene, whose residence address is 103 East Laurel Street, Pinckneyville, IL 62274. The property is described as 99 x 99 except a strip 4 ½ feet off the South side, Lot 13 in the Original of Pinckneyville and Property Index No. 2-53-0660-160

I arrived at the site at 11:25 a.m. As depicted in Photos 001 through 007, the property is covered with open dumped and scattered litter, refuse, scrap, used/waste tires, construction/demolition debris and other materials. There are tarps laid on the ground collecting water. Photos 001, 002, 003, 004, 005 and 007 depict the property covered in open dumped and scattered litter, refuse, scrap and construction/demolition debris. Photo 006 depicts an open dumped used/waste tire on top of the roof. The property is a nuisance and has an irrefutable unsightly appearance.

I left the site at 11:30 a.m.

DISCUSSION:

The Keene property is being used to collect litter, refuse, scrap, construction/demolition debris and used/waste tires. Although the Keene's should be allowed to collect scrap or other materials for salvage, recycling or selling, they are subject to the Illinois Pollution Control Board's regulations regarding salvaging of materials. Section 810.103, under definitions of "salvaging" indicates that materials must be separated by type and store them in a manner that does not create a nuisance, harbor vectors or cause an unsightly appearance.

Further, the open dumping of materials "in the anticipation of some future use at some undefined time" is not acceptable. (INTERIM OPINION AND ORDER OF THE BOARD, June 6, 2002, IEPA v. Yocum, AC 01-29 and IEPA v. Yocum, AC 01-30).

VIOLATIONS:

ILLINOIS ENVIRONMENTAL PROTECTION ACT

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

21(d) No Person Shall Conduct any Waste-Storage, Waste-Treatment, or Waste-Disposal Operation:

(1) Without a Permit

(2) In Violation of Any Regulations or Standards Adopted by the Board.

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

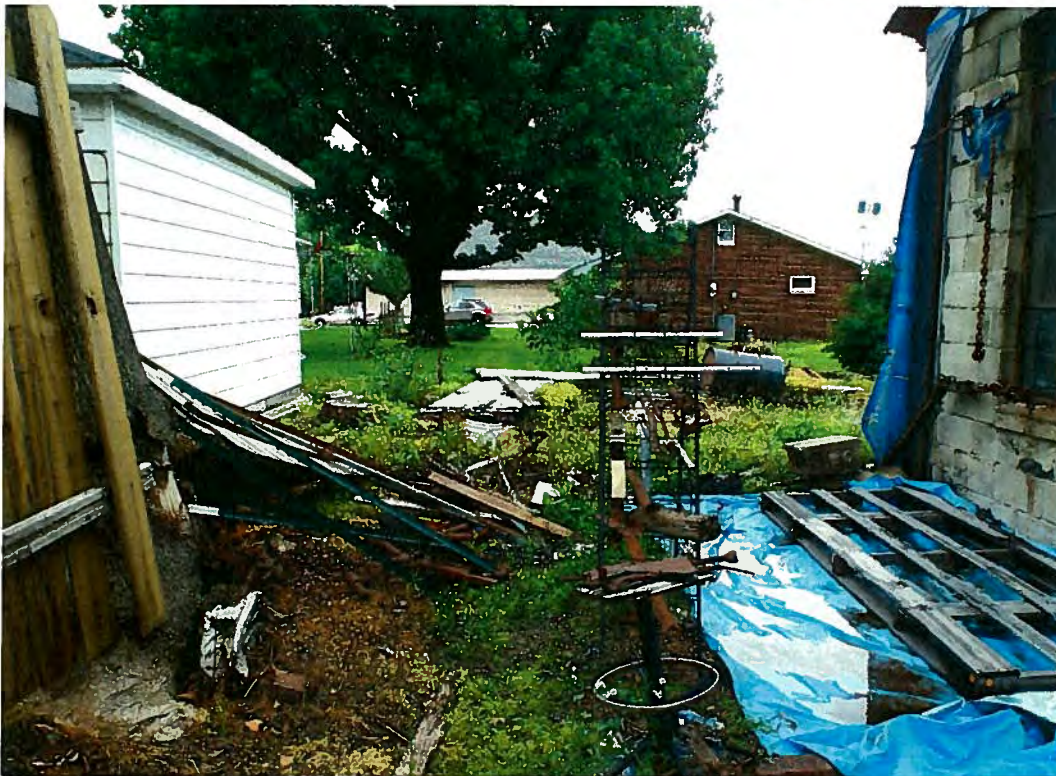
During the inspection, the open dumping of waste that resulted in litter in the form of refuse, debris, scrap, construction/demolition debris and used/waste tires was observed.



DIGITAL PHOTOGRAPHS



Date: 05/21/2013
Time: 11:25 a.m.
Direction: South
Photo by: R. Tracy
Exposure #: 001
Comments: open
dumped and
scattered refuse,
debris and scrap



Date: 05/21/2013
Time: 11:25 p.m.
Direction: South
Photo by: R. Tracy
Exposure #: 002
Comments: open
dumped and
scattered refuse,
debris and scrap



DIGITAL PHOTOGRAPHS



Date: 05/21/2013
Time: 11:26 a.m.
Direction: West
Photo by: R. Tracy
Exposure #: 003
Comments: open
dumped and
scattered refuse,
debris and scrap



Date: 05/21/2013
Time: 11:27 a.m.
Direction: North
Photo by: R. Tracy
Exposure #: 004
Comments: open
dumped and
scattered refuse,
debris and scrap



DIGITAL PHOTOGRAPHS



Date: 05/21/2013
Time: 11:28 a.m.
Direction: West
Photo by: R. Tracy
Exposure #: 005
Comments: open
dumped and
scattered refuse,
debris, scrap, and
used/waste tire



Date: 05/21/2013
Time: 11:28 a.m.
Direction: South
Photo by: R. Tracy
Exposure #: 006
Comments: open
dumped waste tire
on roof



DIGITAL PHOTOGRAPHS



Date: 05/21/2013
Time: 11:29 a.m.
Direction: Northwest
Photo by: R. Tracy
Exposure #: 007
Comments: open
dumped and
scattered refuse,
debris and scrap

SITE SKETCH

Date of Inspection: 05/21/2013

Time: 11:25 a.m. -- 11:30 a.m.

Site Code: 1450155055

Site Name: Pinckneyville/Keene, Donald and Pam

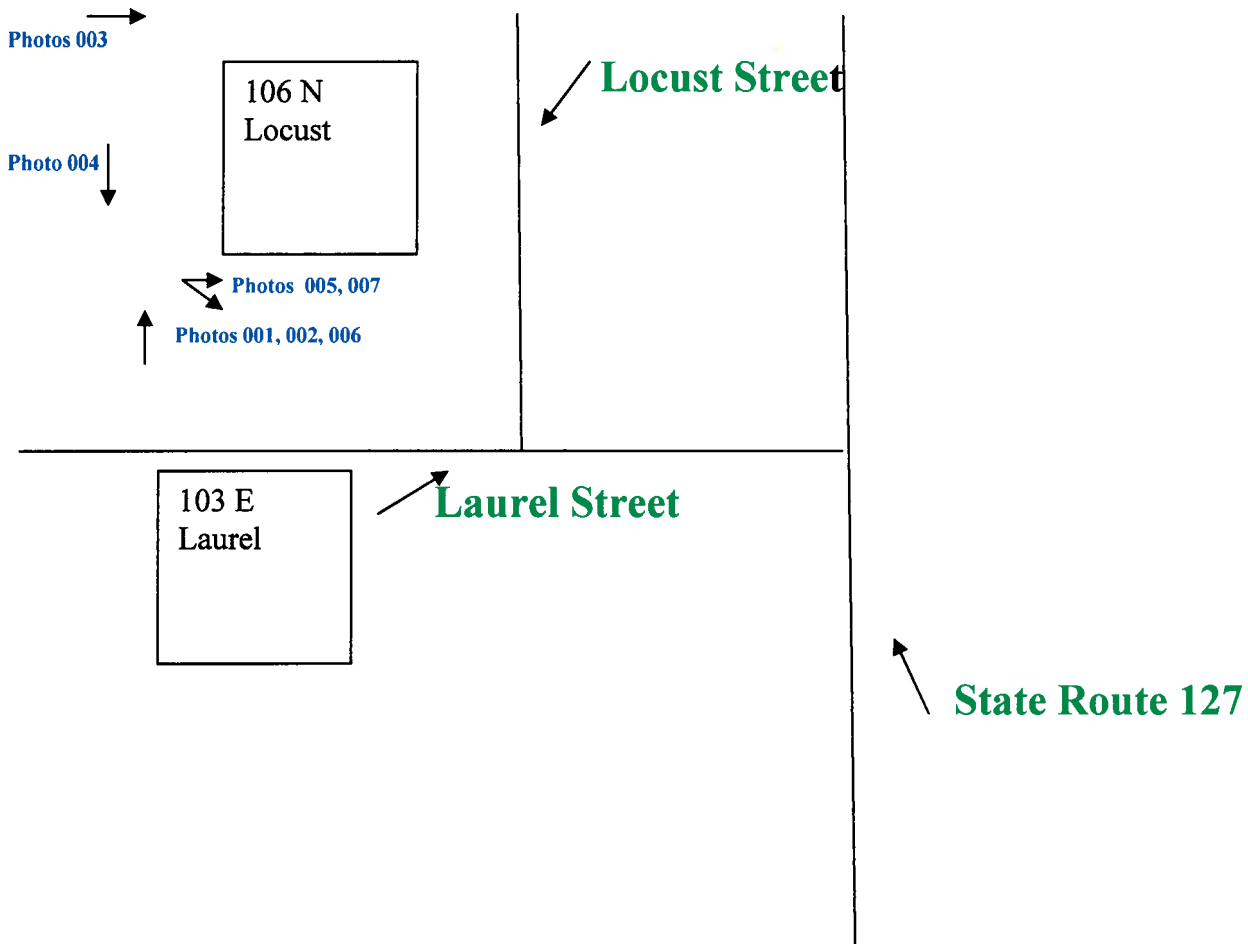
County: Perry

Inspector: Rebecca Tracy

Est. Waste Volume: 100 cubic yards

Previous Inspection: 01/28/2013

N



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