

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

SEP 05 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
ROGER RAY,)
)
Respondent.)

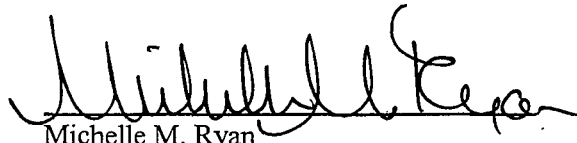
AC 04-08
(IEPA No. 392-03-AC)

NOTICE OF FILING

To: Roger Ray
601 West Jefferson
Sullivan, Illinois 61951

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 2, 2003

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD CLERK'S OFFICE

ADMINISTRATIVE CITATION

SEP 05 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
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v.)
)
ROGER RAY,)
)
Respondent.)

AC 04-08
(IEPA No. 392-03-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 Roger Ray ("Respondent") is the present owner and operator of a facility located on the southeast side of the intersection between the railroad tracks and 750 East in Kirksville, Moultrie County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Kirksville/Ray.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1398065001.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on July 8, 2003, Deanna Carlock of the Illinois Environmental Protection Agency's Champaign Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Deanna Carlock during the course of her July 8, 2003 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) (2002).

- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2002).

- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), 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 September 30, 2003, 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 (2002), 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) (2002), 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 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 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 (2002). 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.

Renee Cipriano
Renee Cipriano, Director *by me*
Illinois Environmental Protection Agency

Date: 9/2/03

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,)	AC
)	
v.)	(IEPA No. 392-03-AC)
)	
ROGER RAY,)	
)	
Respondent.)	

FACILITY: Kirksville/Ray	SITE CODE NO.:	1398065001
COUNTY: Moultrie	CIVIL PENALTY:	\$4,500.00
DATE OF INSPECTION: July 8, 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:)
)
)
)
ROGER RAY,)
)
)
)
Respondent)

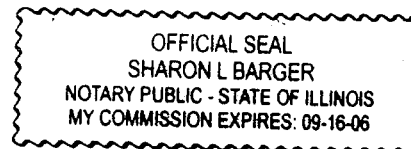
IEPA DOCKET NO. 392-03-AC

Affiant, Deanna Carlock, 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 July 8, 2003, between 7: 50 a.m. and 8:00 a.m., Affiant conducted an inspection of the open dump in Moultrie County, Illinois, known as Kirksville/Ray, Roger open dump, Illinois Environmental Protection Agency Site No. LPC1398065001.
3. Affiant inspected said Kirksville/Ray, Roger open dump by an on-site inspection that included walking the site, and taking photographs.

Deanna J. Carlock

Subscribed and Sworn to before me
this 22nd day of July,
2003.



Sharon L. Barger

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Moultrie LPC#: 1398065001 Region: 4 - Champaign
 Location/Site Name: Kirksville/Ray, Roger
 Date: 07/08/2003 Time: From 7:50 a.m. To 8:00 a.m. Previous Inspection Date: 07/05/2003
 Inspector(s): Deanna Carlock Weather: Sunny, hot, lower 80s degrees F.
 No. of Photos Taken: # 6 Est. Amt. of Waste: 3 yds³ Samples Taken: Yes # _____ No
 Interviewed: _____ Complaint #: C04-003-CH

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

Roger Ray
 601 W. Jefferson
 Sullivan, IL 61951
 217-728-8663

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 JUL 15 2003
 EPA-ILL

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

Illinois Environmental Protection Agency
Bureau of Land ♦ Field Operations Section ♦ Champaign

LPC# 1398065001—Moultrie County

Sullivan/Ray, Roger

FOS File

Complaint #C04-003-CH

Inspector: Deanna Carlock

Inspection Date: 8 July 2003

GIS Data: Latitude-N 39.57037°", Longitude-W 088.6702°" (www.mapsonus.com)

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JUL 15 2003
EPA/BOL

OPEN DUMP INSPECTION NARRATIVE

On July 8, 2003, from approximately 7:50 to 8:00 a.m. I inspected the above-referenced unpermitted site, located on the southeast corner of the intersection of County Road 750E and the railroad track in Block three of the J.W. Evans' Second Addition to Kirksville, Illinois. Roger E. and Lynda S. Ray own the site. The purpose of the inspection was to respond to a citizen complaint and determine whether the site was in compliance with the Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The weather was sunny, about 80° F. Six photos were taken. No one else was on site during the investigation.

Site History:

This site was originally inspected on April 15, 2003 in response to a complaint of open dumping and burning on the site. A large burn pile and other waste were found on site. On May 23, 2003, the owner, Roger Ray of Sullivan, was sent an Administrative Citation Warning Notice citing open burning and open dumping of waste, including general construction or demolition debris. The Notice required all waste to be removed to a permitted landfill or transfer station by July 1, 2003 and the immediate cessation of all open dumping and open burning.

On July 4, 2003, an inspection in response to another citizen complaint found open burning had occurred in a dug hole on site. On July 5, 2003, an inspection found additional open burning had occurred in the same hole.

Inspection Findings:

I arrived at the site and saw what appeared to be the same large pile of dirt (see Photo # 5) that I had seen on site during my previous inspections on July 4 and July 5. Inside the hole were additional burned waste that had not been there on July 5, including flat metal pieces and partially burned boards and particleboard. The truck and backhoe were still on site.

The following violations were observed during this inspection.

Summary of Apparent Violations:

Environmental Protection Act.(Act) 415 ILCS 5/1 et. seq

- #1 Pursuant to Section 9(a) of the Act, no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board

LPC # 1398065001
Inspection Date 7-8-03
FOS FILE

A violation of this section is alleged because the open dumping of waste was caused or allowed in a manner that resulted in open burning.

#9. Pursuant to 35 Ill. Adm. Code 812.101(a), all persons, except those specifically exempted by Section 21(d) of the Act, shall submit to the Agency an application for a permit to develop and operate a landfill.

A violation of this section is alleged because a waste disposal site was operated without submitting to the Illinois EPA an application for a permit to develop and operate a landfill.

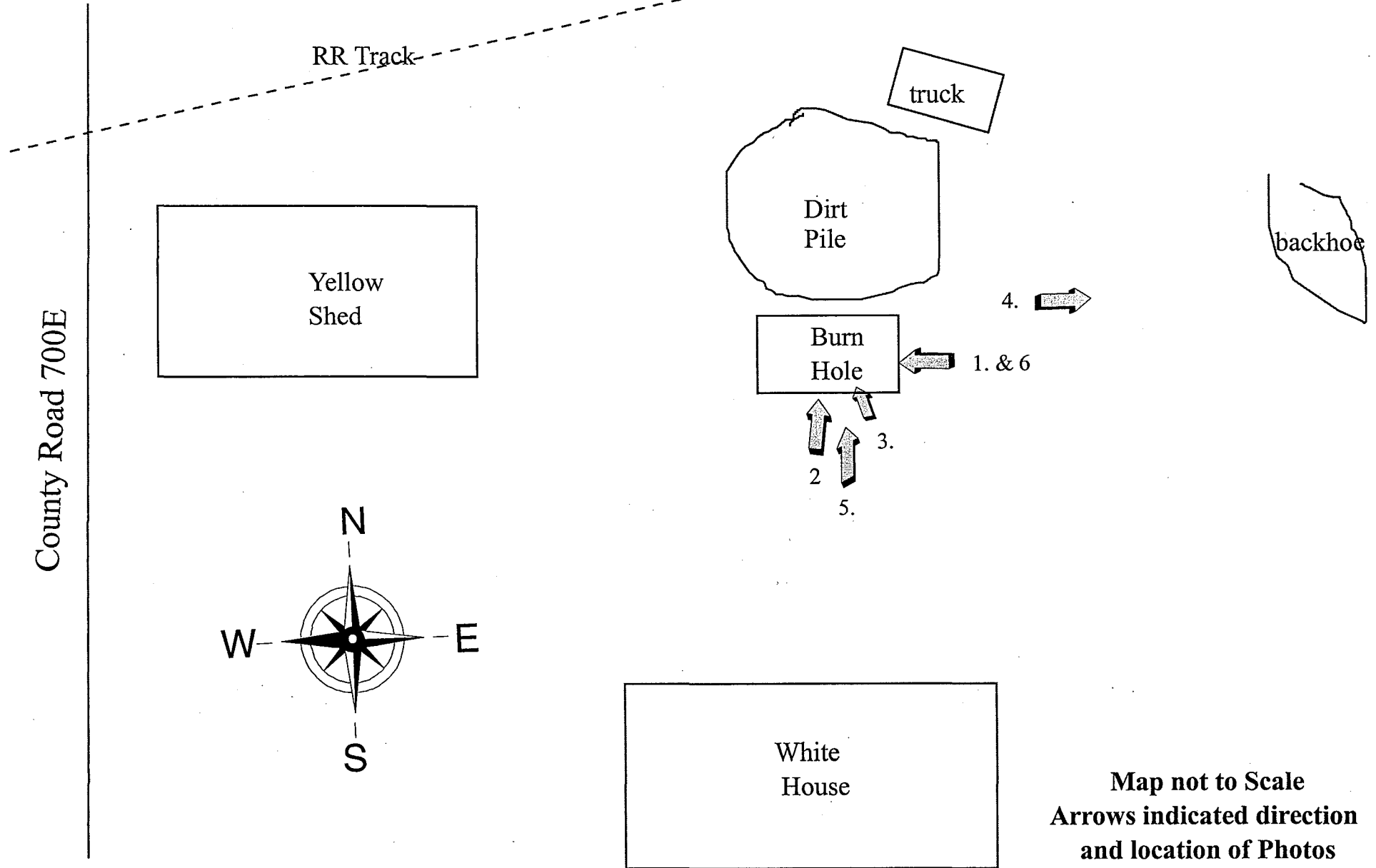
Illinois Environmental Protection Agency

LPC # 1398065001--Moultrie County

Sullivan / Ray, Roger

Photos taken July 8, 2003

Site Photo Map



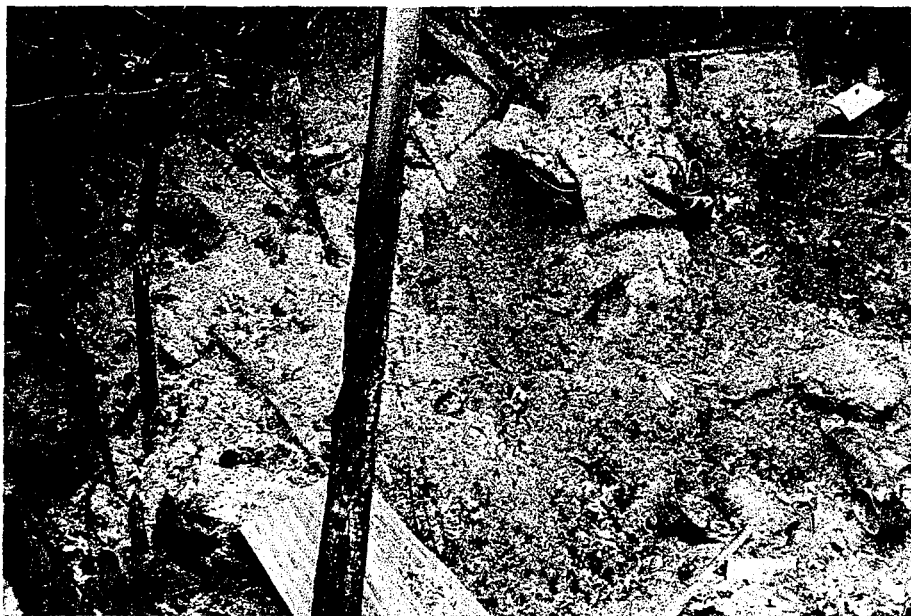
Map not to Scale
Arrows indicated direction
and location of Photos



DIGITAL PHOTOGRAPHS

LPC #1398065001—Moultrie County
Kirksville/Ray, Roger
FOS File

Date: 7-8-03
Time: 7:55 a.m.
Direction: East
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-001
Comments:



Date: 7-8-03
Time: 7:56 a.m.
Direction: North
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-002
Comments:



LPC #1398065001—Moultrie County
Kirksville/Ray, Roger
FOS File

Date: 7-8-03
Time: 7:56 a.m.
Direction: North
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-003
Comments:



Date: 7-8-03
Time: 7:57 a.m.
Direction: East
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-004
Comments:



LPC #1398065001—Moultrie County
Kirksville/Ray, Roger
FOS File

Date: 7-8-03
Time: 7:57 a.m.
Direction: North
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-005
Comments:



Date: 7-8-03
Time: 7:58 a.m.
Direction: West
Photo by: D. Carlock
Photo File Name:
1398065001~07082003-006
Comments:



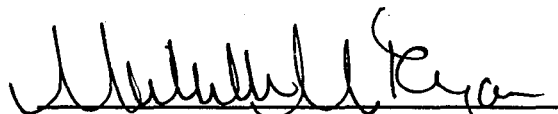
PROOF OF SERVICE

I hereby certify that I did on the 2nd day of September, 2003, 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: Roger Ray
601 West Jefferson
Sullivan, Illinois 61951

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail 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