BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE
AUG 6 2003
STATE OF ILLINOIS
Pollution Control Board

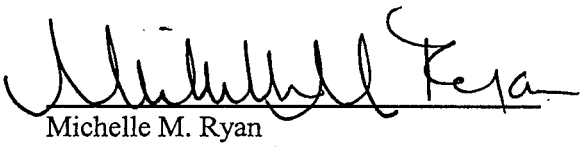
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
Complainant,	)	AC 04-05
v.	)	(IEPA No. 389-03-AC)
JERRY SUMMERS,	)	
Respondent.	)	

NOTICE OF FILING

To: Jerry Summers
Rural Route 1, Box 144
Vandalia, Illinois 62471

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: August 1, 2003

THIS FILING SUBMITTED ON RECYCLED PAPER

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 State of Illinois 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.**

RECEIVED
CLERK'S OFFICE
AUG 6 2003
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	
Complainant,	)	AC #04-05
v.	)	(IEPA No. 389-03-AC)
JERRY SUMMERS,	)	
Respondent.	)	

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 Jerry Summers is the present owner and operator of a facility located in the Southeast Quarter of Section 29, Township 6 North, Range 1 East of the Third Principal Meridian, Fayette County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Vandalia/Summers.

2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0518175007.

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

4. That on June 3, 2003, John Senjan of the Illinois Environmental Protection Agency's Collinsville 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 John Senjan during the course of his June 3, 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 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

On March 6, 2003, the Board found Jerry Summers in violation of Section 21(p)(1) and 21(p)(7) of the Act in AC 03-18. 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 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 August 31, 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 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) (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 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 (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 by mcc
Renee Cipriano, Director
Illinois Environmental Protection Agency

Date: 8/1/03

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. 389-03-AC)
JERRY SUMMERS,	)	
Respondent.	)	

FACILITY: Vandalia/Summers SITE CODE NO.: 0518175007

COUNTY: Fayette CIVIL PENALTY: $6,000.00

DATE OF INSPECTION: June 3, 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:	)	
	)	
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,	)	LPC# 0518175007 – FAYETTE COUNTY VANDALIA / SUMMERS, JERRY
Complainant	)	COMPLIANCE FILE
	)	
vs.	)	
JERRY SUMMERS	)	
Respondent	)	
	)	

RECEIVED
JUN 19 2003
IEPA-DLPC

Affiant, John S. Senjan being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspectors employed by the Land Pollution Control Division of the Environmental Protection Agency and has been so employed at all times pertinent hereto.

2. On June 3, 2003 between 10:30 a.m. and 11:00 a.m., Affiant conducted an inspection of an open dump operated without an Agency permit, located in Fayette County, Illinois and known as Summers, Jerry, by the Illinois Environmental Protection Agency. The said site is commonly known to the Agency as LPC# 10518175007-Fayette County, Vandalia/Summers, Jerry.

3. Affiant inspected said Vandalia/Summers, Jerry 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 Checklist 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 Vandalia/Summers, Jerry open dump site.

SEAL

Subscribed and Sworn To before me
This 17th day of June 2003

Paula Ottensmeier
Notary Public

"OFFICIAL SEAL"
Paula Ottensmeier
Notary Public, State of Illinois
My Commission Expires 11/9/03

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Fayette LPC#: 0518175007 Region: 6 - Collinsville

Location/Site Name: Vandalia/Summersa

Date: 06/03/2003 Time: From 10:30 am To 11:00 am Previous Inspection Date: 11/21/2002

Inspector(s): John Senjan Weather: 70 °F overcast

No. of Photos Taken: # 2 Est. Amt. of Waste: 120 yds^3 Samples Taken: Yes # No ☒

Interviewed: Jerry Summers Complaint #: C-2003-009

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

Jerry Summers
R.R. 1, Box 144
Vandalia, IL 62471

RECEIVED
JUN 19 2003
IEPA-DOT

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	☐
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	☐
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	☐
4.	12(d)	CREATE A WATER POLLUTION HAZARD	☐
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	☒
6.	21(d)	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	☒
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	☒
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	☒
	(2)	Scavenging	☐
	(3)	Open Burning	☐
	(4)	Deposition of Waste in Standing or Flowing Waters	☐
	(5)	Proliferation of Disease Vectors	☐
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	☐

LPC # 0518175007

Inspection Date: 06/03/2003

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	☒
9.	55(a)	**NO PERSON SHALL:**	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	☐
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	☐
		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**	☒
11.	722.111	**HAZARDOUS WASTE DETERMINATION**	☒
12.	808.121	**SPECIAL WASTE DETERMINATION**	☒
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**	☐
		OTHER REQUIREMENTS	
14.		**APPARENT VIOLATION OF: (☐) PCB; (☐) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:**	☐
15.	**OTHER:**		☐
			☐
			☐
			☐
			☐
			☐

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.

LPC# 051815007 – Fayette County
Vandalia/Summers, Jerry
Compliance File

JUN 19 2003
IEPA/DLPC

REMARKS

Site History

This site has a history that dates back to January 25, 2000, when it was first inspected based on a citizen complaint. That inspection lead to a Violation Notice Letter L–2000-01040 for open dumping being sent to the respondent, Jerry Summers. Mr. Summers operates a small construction demolition service just outside of the city of Vandalia. Mr. Summers eventually was able to clean up the site, but disposal receipts were never provided to the Agency.

Based on a second citizen complaint, the site was again inspected on November 21, 2002. As before, a second open dump was located at a different location on Mr. Summer's property. When interviewed, Mr. Summers admitted to doing the open dumping. The result of that inspection was an Administrative Citation being sent to Mr. Summers on January 10, 2003. The AC contained a penalty of $3,000. In addition to the AC, a Notice of Corrective Action Required for Open Dumps was sent to Mr. Summers on March 3, 2003. The notice set a cleanup deadline for June 2, 2003.

The following re-inspection was conducted on June 3, 2003.

Inspection

When I arrived at the site, I found Mr. Summers at his mailbox. During the following interview, Mr. Summers stated that he had removed one load of the demolition debris. However, he could not provide a receipt for verification. Mr. Summers then accompanied me during the physical inspection of the dumpsite. During the inspection, I found that everything appeared as it did during the November 21, 2002 inspection. Only two photos were taken of the site because a proper angle was hard to find. Since the dumpsite is on a hillside, the dense vegetation is covering the majority of the site.

The open dump in the nearby barrow pit also appeared to be the same. However, the barrow pit itself had changed somewhat. There was a track hoe parked next to pit. There were signs that it had recently been removing dirt. I found this significant, in that, Mr. Summers possesses the tools necessary to clean up a site as large as his. I originally estimated that there was 120 cubic yards at the site. This may be a conservative estimate, since most of the dump is covered with dirt making a closer estimation impossible.

During the June 3, 2003 inspection the following violations were again noted:

Section 21(d)(1) – Conducting any waste-disposal operation without a permit.
Section 21(d)(2) – Conducting any waste-disposal operation in Violation of any Regulations or Standards adopted by the Board.
Section 21(p)(1) – Cause or allow the open dumping of any waste in a manner, which results in litter.

Section 21 (p)(7) – Cause or allow the open dumping of any waste in a manner which results in the deposition of general construction or demolition debris.
Section 812.101(a) – Failure to submit an application for a permit to develop and operate a landfill.
Section 722.111 – Failure to make a hazardous waste determination for the drums located at the dumpsite.

cc: DLPC/FOS - Collinsville Region

LPC # 0518175007 – Fayette County
Vandalia / Summers
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: June 3, 2003
TIME: 10:30 a.m.
DIRECTION: SE
PHOTO by: John Senjan
PHOTO FILE NAME:
0518175007~06032003-001
COMMENTS:

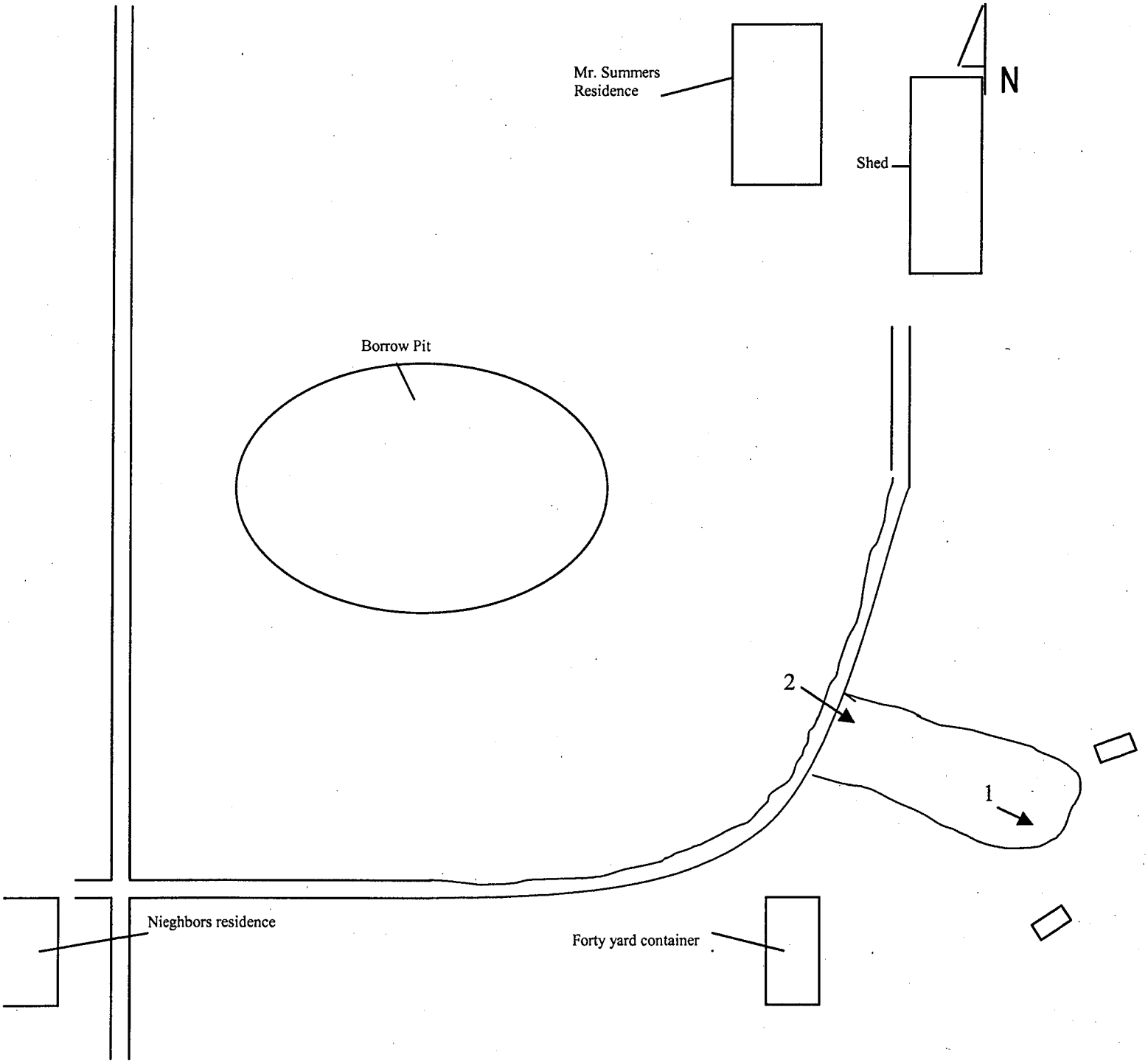
DATE: June 3, 2003
TIME: 10:30 a.m.
DIRECTION: SE
PHOTO by: John Senjan
PHOTO FILE NAME:
0518175007~06032003-002
COMMENTS:

State of Illinois
Environmental Protection Agency
Facility Diagram

Date of Inspection: June 3, 2002 Inspector: John Senjan

Site Code: 0518175007 County: Fayette

Site Name: Summers Time: 10:30 a.m.



PROOF OF SERVICE

I hereby certify that I did on the 1st day of August, 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: Jerry Summers
Rural Route 1, Box 144
Vandalia, Illinois 62471

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

THIS FILING SUBMITTED ON RECYCLED PAPER