

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

ADMINISTRATIVE CITATION

OCT 24 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

JERRY SUMMERS,

Respondent.

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AC 04-20

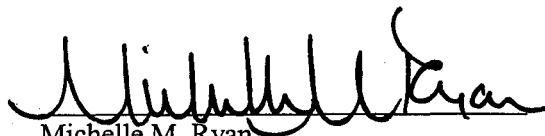
(IEPA No. 562-03-AC)

NOTICE OF FILING

To: Jerry Summers
R.R. 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: October 21, 2003

RECEIVED
CLERK'S OFFICE

OCT 24 2003

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
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AC 04-20
(IEPA No.562-03-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 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 September 22, 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 September 22, 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 (7) of the Act in AC 2003-18.

Because this Administrative Citation addresses a second or subsequent violation of Section 21(p), 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 December 15, 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
Renee Cipriano, Director *by wcc*
Illinois Environmental Protection Agency

Date: 10/21/03

Prepared by: Susan E. Konzelmann, Legal Assistant
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.

JERRY SUMMERS,

Respondent.

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AC

(IEPA No. 562-03-AC)

FACILITY: Vandalia/Summers

SITE CODE NO.: 0518175007

COUNTY: Fayette

CIVIL PENALTY: \$6,000.00

DATE OF INSPECTION: September 22, 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

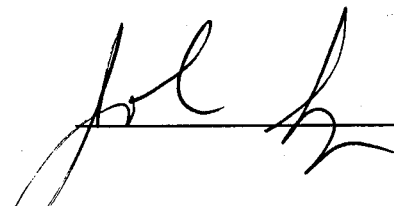
IN THE MATTER OF:)	
)	
ILLINOIS ENVIRONMENTAL)	LPC# 0518175007 – FAYETTE COUNTY
PROTECTION AGENCY,)	VANDALIA / SUMMERS, JERRY
Complainant)	COMPLIANCE FILE
)	
vs.)	
JERRY SUMMERS)	
Respondent)	
)	

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 September 22, 2003 between 12:0 p.m. and 12:15 p.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.

Subscribed and Sworn To before me
This 29th day of September 2003

Paula Ottensmeier
Notary Public



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

SEAL

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Fayette LPC#: 0518175007 Region: 6 - Collinsville
 Location/Site Name: Vandalia/Summersa
 Date: 09/22/2003 Time: From 12:00 pm To 12:15 pm Previous Inspection Date: 06/03/2003
 Inspector(s): John Senjan Weather: ≈ 70 °F sunny and clean
 No. of Photos Taken: # 5 Est. Amt. of Waste: 120 yds³ Samples Taken: Yes # _____ No
 Interviewed: Jerry Summers Complaint #: C-2003-009

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

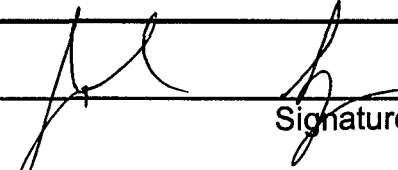
Jerry Summers R.R. 1, Box 144 Vandalia, IL 62471	
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	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<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 # 0518175007

Inspection Date: 00/22/2003

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

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

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. 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. On June 3, 2003, a re-inspection was conducted. It resulted in a second AC being sent to Mr. Summers seeking \$6,000 in penalty. Due to time restraints, service on the AC was missed.

In order to restart the AC process, the following re-inspection was conducted at the site.

Inspection

I conducted a routine open dump inspection at the above referenced site on September 22, 2003. The inspection lasted from approximately 12:00 p.m. to 12:15 p.m. No one was present at the site during the inspection. I took 5 photographs and no samples. The weather was clear and calm, with semi-dry soil conditions. The temperature was in the upper 70's. The inspection consisted of walking the site and taking photographs.

Before inspecting the open dumping site, I first approached Mr. Summer's residence and knocked on the door. There was no reply, so I moved to the open dump. Once there, I discovered that the construction demolition debris noted in previous inspections had been almost completely covered with dirt. A large quantity of dirt was used to cover the open dump, however, whoever did the cover up failed to completely cover the entire dump. Two areas were seen that had not been completely covered. In photos #2&3 debris can be seen protruding from the dirt. It is significant to note that there is still debris underneath the dirt. It has been this inspector's experience that demolition contractors will sometimes obtain disposal receipts from one job and contend that they were generated from the clean up of an open dumpsite. The importance of this is multiplied, since the complainant had called to inform me that Mr. Summers was tearing down a house near Vandalia. It appears that the open dump on Mr. Summer's property still exists.

LPC# 051815007 – Fayette County
Vandalia/Summers, Jerry
Compliance File
Page 2

The dirt used to cover up the dumpsite appeared to have been taken from Mr. Summers nearby barrow pit. This became evident when I walked over to the barrow pit I noted that section of it had been recently disturbed. I also noted a small area of open dumping (see photo #4).

I departed the site at 12:15 p.m.

During the September 22, 2003 inspection the following violations were again noted:

Section 21(a) – Cause or allow open dumping.

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(e) – Dispose, treat, store, or abandon any waste at sites not meeting the requirements of the Act.

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.

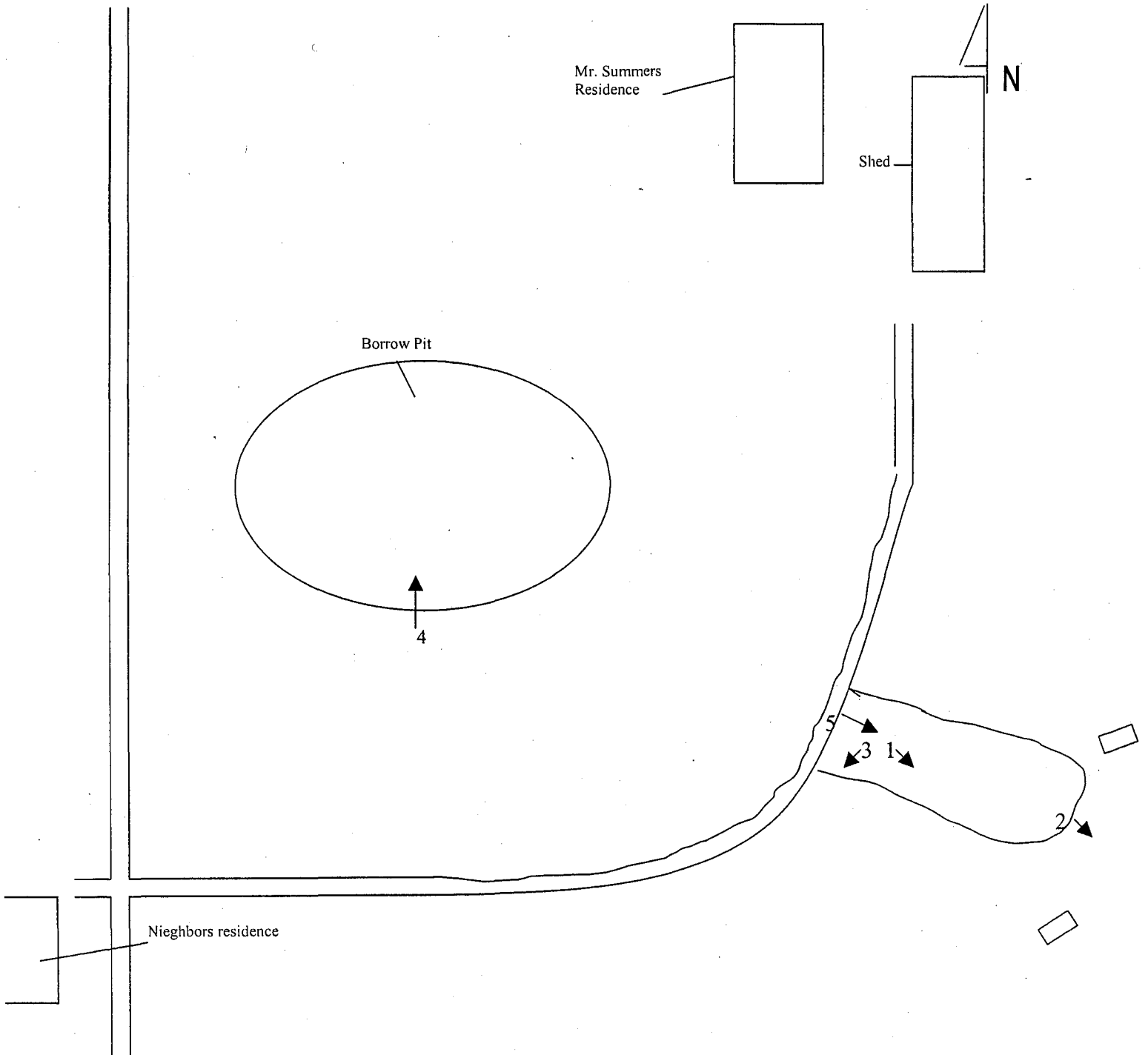
cc: DLPC/FOS - Collinsville Region

State of Illinois
Environmental Protection Agency
Facility Diagram

Date of Inspection: September 22, 2003 Inspector: John Senjan

Site Code: 0518175007 County: Fayette

Site Name: Summers Time: 12:00pm



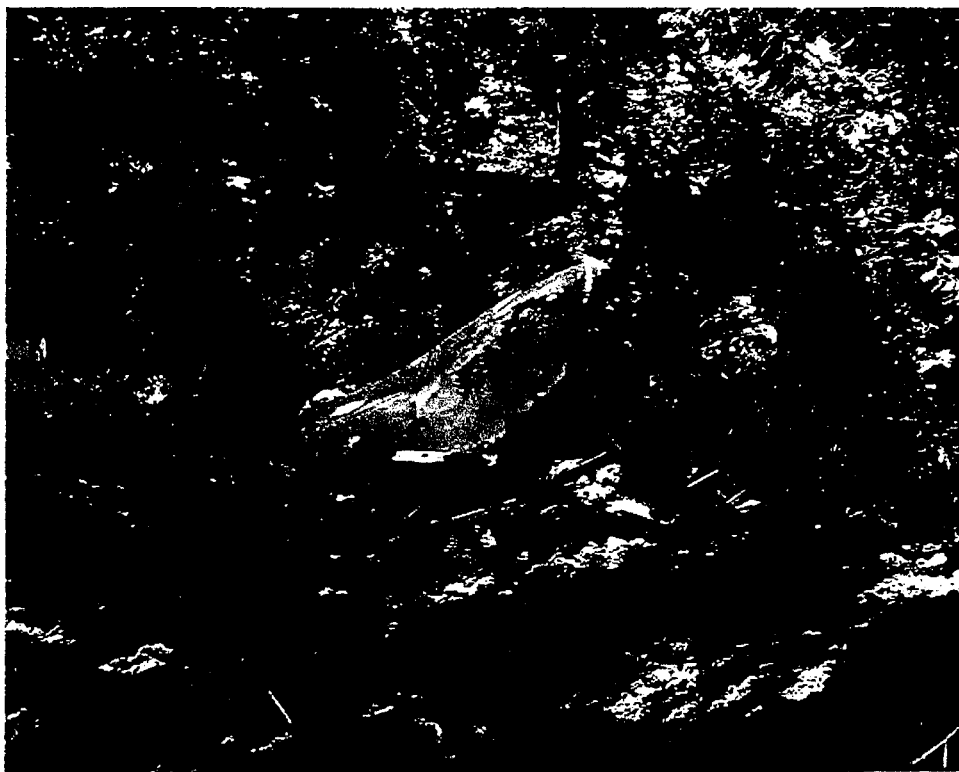
**LPC # 0578175007 – Fayette County
Vandalia / Summers
FOS File**

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 22, 2003
TIME: 12:00 p.m.
DIRECTION: SE
PHOTO by: John Senjan
PHOTO FILE NAME:
0578175007~09222003-001
COMMENTS: Dirt covering fill
area.



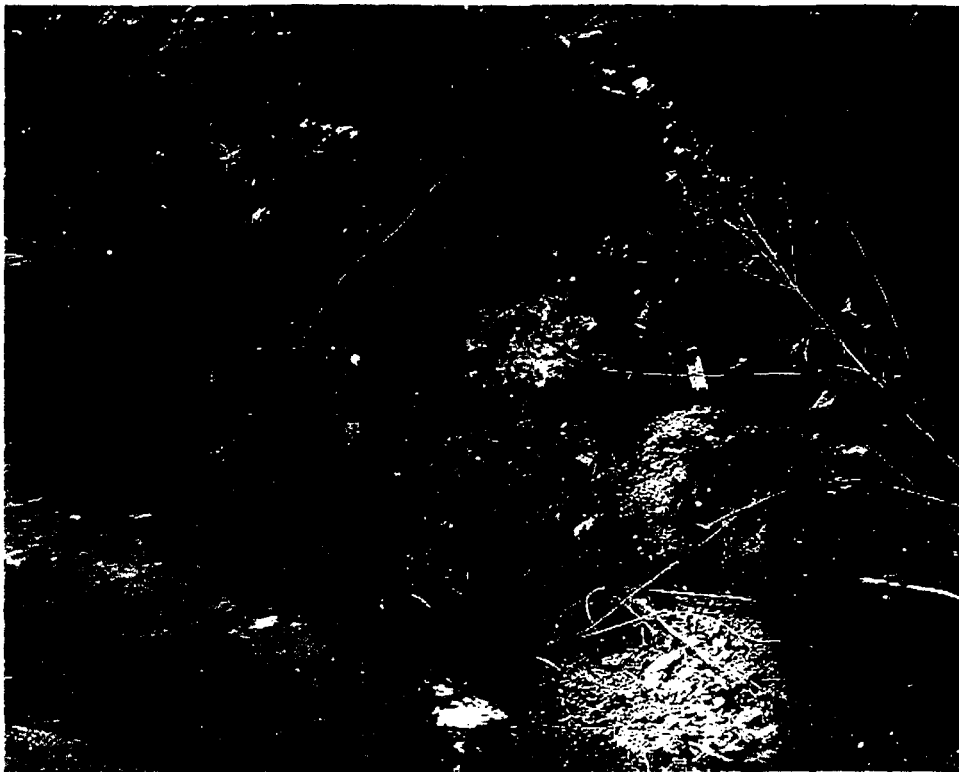
DATE: September 22, 2003
TIME: 12:00 p.m.
DIRECTION: SE
PHOTO by: John Senjan
PHOTO FILE NAME:
0578175007~09222003-002
COMMENTS: C&D material
sticking out of the bottom of the fill
area.



LPC # 0578175007 – Fayette County
Vandalia / Summers
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 22, 2003
TIME: 12:00 p.m.
DIRECTION: SW
PHOTO by: John Senjan
PHOTO FILE NAME:
0578175007~09222003-003
COMMENTS: C&D material,
including a waste tire, that hasn't
been covered by dirt.



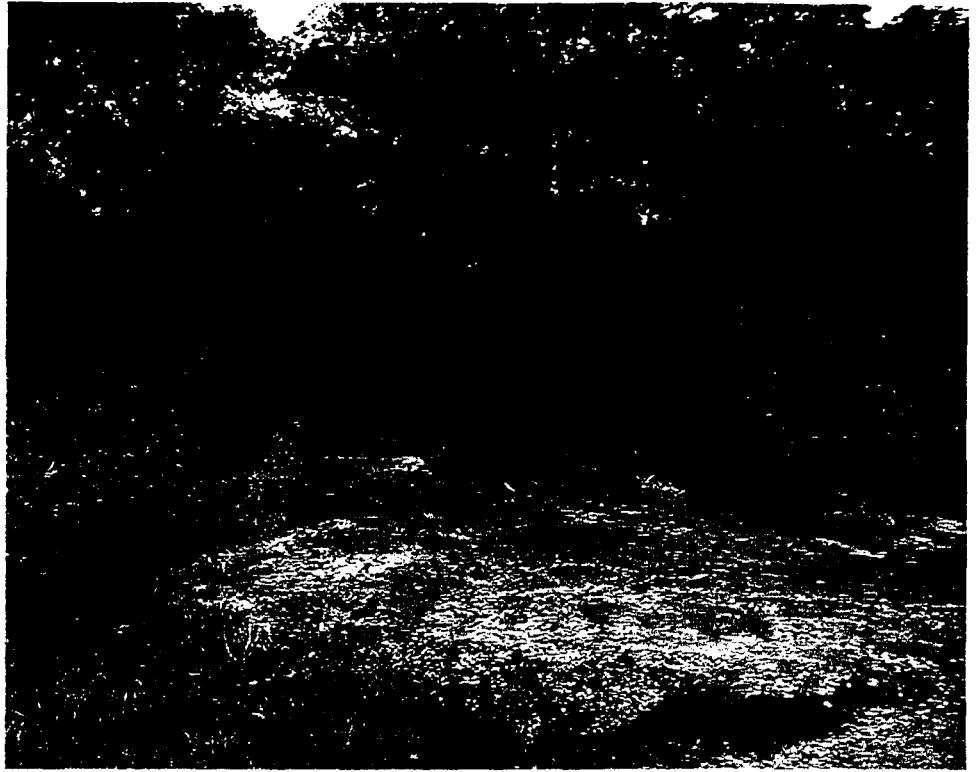
DATE: September 22, 2003
TIME: 12:00 p.m.
DIRECTION: N
PHOTO by: John Senjan
PHOTO FILE NAME:
0578175007~09222003-004
COMMENTS: General refuse in
barrow area.



**LPC # 0578175007 – Fayette County
Vandalia / Summers
FOS File**

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: September 22, 2003
TIME: 12:00 p.m.
DIRECTION: SE
PHOTO by: John Senjan
PHOTO FILE NAME:
0578175007~09222003-005
COMMENTS: Same as photo #1.
Only wider angle.



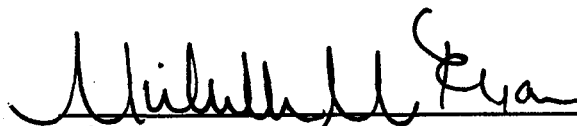
PROOF OF SERVICE

I hereby certify that I did on the 21st day of October, 2003 send by overnight mail to the Collinsville Regional Office of the Illinois EPA, a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST for hand delivery

To: Jerry Summers
R.R. 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