

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

AUG 15 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MARY LOU and H. FRANK RECORD,)
)
Respondents.)

AC 04-06

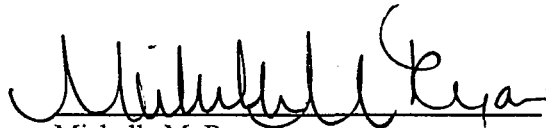
(IEPA No. 391-03-AC)

NOTICE OF FILING

To: Mary Lou Record and
H. Frank Record d/b/a Quality Disposal
31011 North County Highway 2
Ellisville, Illinois 61431

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 11, 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

RECEIVED
CLERK'S OFFICE

AUG 15 2003

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,)
))
v.)
))
MARY LOU and H. FRANK RECORD,)
))
Respondents.)

AC 04-06

(IEPA No. 391-03-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 H. Frank Record Mary Lou Record are the present owners and operators of a facility located at 31011 North County Highway 2, Ellisville, Fulton County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Record Property.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0578255001.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on June 19, 2003, Robert Wagner 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 Robert Wagner during the course of his June 19, 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).
- (2) That Respondents 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 Respondents 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), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 August 31, 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 Respondents.

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

Date: 8/11/03

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

RECEIVED
CLERK'S OFFICE

AUG 15 2003

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
MARY LOU and H. FRANK RECORD,)
)
Respondents.)

AC *04-06*
(IEPA No. 391-03-AC)

FACILITY: Record Property

SITE CODE NO.: 0578255001

COUNTY: Fulton

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: June 19, 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:)

MARY LOU and H. FRANK)

RECORD)

IEPA DOCKET NO. 391-03-AC)

RESPONDENTS)

Affiant, Robert J. Wagner, being first duly sworn, voluntarily deposes and states as follows:

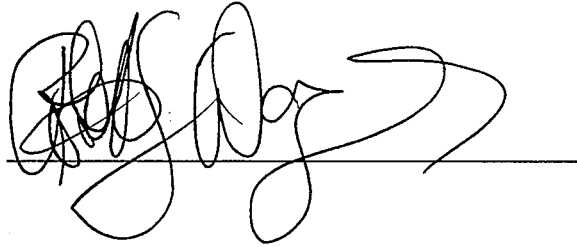
1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.

2. On June 19, 2003, between 11:20 a.m. and 1:00 p.m., Affiant conducted an inspection of the open dump in Fulton County, Illinois, known as Record Property, Illinois Environmental Protection Agency Site No. 0578255001.

3. Affiant inspected said Record Property open dumpsite by an on-site inspection, which included walking the site and photographing the site.

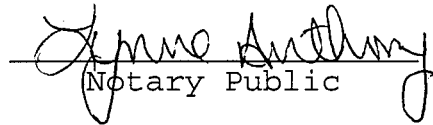
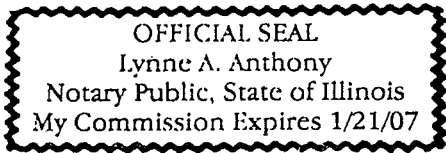
4. As a result of the activities referred to in Paragraphs 3 above, Affiant completed the Inspection Report form attached hereto and made a part hereof, which, to the best of Affiant's knowledge and belief, is an accurate representation of

Affiant's observations and factual conclusions with respect to
Record Property open dump.



Subscribed and Sworn to before

me this 25 day of June



Notary Public

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist**

County: Fulton LPC#: 0578255001 Region: 3 - Peoria
 Location/Site Name: Young Hickory / Record Property
 Date: 06/19/2003 Time: From 11:20 AM To 1:00 PM Previous Inspection Date: _____
 Inspector(s): Robert J. Wagner Weather: 74 F, Sunny Dry
 No. of Photos Taken: # 43 Est. Amt. of Waste: 1950 yds³ Samples Taken: Yes # _____ No
 Interviewed: Mary Lou Record Complaint #: C-2003-082-P

Responsible Party Mailing Address(es) and Phone Number(s):	Frank H. Record d/b/a Quality Disposal 31011 N. County Hwy 2 Ellisville, Illinois, 61431 (309) 293-5205	Mary Lou Record 31011 N. County Hwy 2 Ellisville, Illinois, 61431 (309) 293-5205
---	---	---

RECEIVED
JUN 23 2003
EPA

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"/>

LPC # 0578255001

Inspection Date: 06/19/2003

	(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 checked="" type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input checked="" 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"/>
			<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.

RECEIVED
JUL 11 2003
EIA-DOJ

Narrative

On June 19, 2003, this author (Robert J. Wagner) inspected a property owned by Frank and Mary Lou Record (see attached property deed). The property is located at 31011 N. County Highway 2, Ellisville, Illinois. The inspection was a result of a citizen's complaint (C-2003-082-P). Frank Record owns and operates a garbage disposal business called Quality Disposal.

The complainant alleged that Frank Record dumps garbage and construction debris on his property. According to the complainant, Mr. Record burns the garbage and construction debris as a method of disposal. The complainant alleged that Mr. Record also buries waste materials on the property. The material is buried behind a red barn and in a ravine on the property. For the purpose of this report these area will be referred to as Site 1 (Burn Area), Site 2 (Red Barn Area), and Site 3 (Ravine Area). Attached to this report is an aerial photograph showing the three sites.

This author arrived at 11:20 AM at the Record Property. This author observed from County Highway 2 material being burned on the property. This author spoke to Mrs. Mary Lou Record about the material being burned on the property. She gave this author permission to walk and photograph the property.

Site 1

This author observed dry wall, processed wood, a barrel, a hot water heater, green material, paper, a wood pole (electrical pole), and metal containers being burned on Site 1. The waste material was being burnt in two rows. Photographs 1, 2, 3, 4, 6, 7, and 8 show the burn area. This author observed the charred remains of burnt tires that were still on rim attached to a trailer. Photograph 5 shows the tires. Adjacent to the burn pile was another pile of debris. This pile of debris consisted of dirt, processed wood, blue containers, and tree branches. Photograph 9 shows the pile of debris. The two rows of the burn pile will be called Row 1 and Row 2 for this report. Row 1 was approximately 25 feet long by 5 feet wide by 3 feet high in size (13 yd³). Row 2 was approximately 50 feet long by 5 feet wide by 1 foot high in size (9 yd³). The pile of debris was approximately 6 feet long by 6 feet wide by 5 feet high in size (6 yd³). The total amount of waste deposited on Site 1 was 28 yd³.

Site 2

This author observed white goods, plastic containers, plastic wrappers, paper, carpet, glass bottles, tires, and general refuse dumped on Site 2 (see site sketch). Photographs 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 show the solid waste material. It was difficult to assess how large of an area was effected by the solid waste dumped in this area because of the vegetative growth. Site 2 was approximately 40 feet long by 73 feet wide by 1 foot deep in size (108 yd³).

Site 3

This author observed processed wood, paper, plastic containers, a plastic cooler, and metal debris dumped on Site 3. Evidence indicates that material is buried in this area of the property. This evidence is papers and plastic containers protruding from the ground. Photograph 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43 show the solid waste material. The photographs also show a bulldozer tractor sitting on the area where solid waste material is located. Site 3 was approximately 254 feet long by 193 feet wide by 1 foot deep in size (1815 yd³).

According to Mrs. Record, the solid waste material being burnt on her property probably came from a barn that was being cleaned. She was not sure where the barn was located on her property. She said some of the material might have come from her daughter's house. She then gave me her daughter's name and address, Susan Platt, 9936 E. County Hwy 17, Ellisville, Illinois. She does not know how the solid waste material dumped behind the red barn got there (Site 2). She said that her husband no longer dumps in the ravine area of the property (Site 3). She said that they have not used that dumpsite for several years. Her husband takes all the solid waste material he collects from his routes to the landfill. This author departed at 1 PM.

The following alleged violations were observed and indicated on the open dump inspection checklist:

1. Pursuant to Section 9(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/9(a)), 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 under this Act.

A violation of Section 9(a) is alleged for the following reason: **Evidence of open burning which would cause or tend to cause air pollution in Illinois was observed during the inspection.**

2. Pursuant to Section 9(c) of the {Illinois} Environmental Protection Act (415 ILCS 5/9(c)), no person shall cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this Act.

A violation of Section 9(c) is alleged for the following reason: **Evidence of open burning was observed during the inspection.**

3. Pursuant to Section 21(a) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(a)), no person shall cause or allow the open dumping of any waste.

A violation of Section 21(a) is alleged for the following reason: **Evidence of open dumping of waste was observed during the inspection.**

4. Pursuant to Section 21(d)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(d)(1)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency or in violation of any conditions imposed by such permit.

A violation of Section 21(d)(1) is alleged for the following reason: **Waste was disposed without a permit granted by the Illinois EPA.**

5. Pursuant to Section 21(d)(2) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(d)(2)), no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Board under this Act.

A violation of Section 21(d)(2) is alleged for the following reason: **A waste disposal operation was conducted in violation of regulations adopted by the Illinois Pollution Control Board.**

6. Pursuant to Section 21(e) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(e)), no person shall dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

A violation of Section 21(e) is alleged for the following reason: **Waste was disposed at this site which does not meet the requirements of the Act and regulations thereunder.**

7. Pursuant to Section 21(p)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(p)(1)), no person shall, in violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in litter.

The prohibitions specified in this subsection (p) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to open dumping.

A violation of Section 21(p)(1) is alleged for the following reason: **The open dumping of waste was caused or allowed in a manner which resulted in litter.**

8. Pursuant to Section 21(p)(3) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(p)(3)), no person shall, in violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in open burning.

A violation of Section 21(p)(3) is alleged for the following reason: **The open dumping of waste was caused or allowed in a manner which resulted in open burning.**

9. Pursuant to Section 21(p)(7) of the {Illinois} Environmental Protection Act (415 ILCS 5/21(p)(7)), no person shall cause or allow the open dumping of waste in a manner that results in deposition of general or clean construction or demolition debris.

A violation of Section 21(p)(7) is alleged for the following reason: **The open dumping of waste was caused or allowed in a manner which resulted in deposition of general or clean construction or demolition debris.**

10. Pursuant to Section 55(a)(1) of the {Illinois} Environmental Protection Act (415 ILCS 5/55(a)(1)), no person shall cause or allow the open dumping of any used or waste tire.

A violation of Section 55(a)(1) is alleged for the following reason: **Evidence of open dumping of used or waste tires was observed during the inspection.**

11. Pursuant to Section 55(a)(2) of the {Illinois} Environmental Protection Act (415 ILCS 5/55(a)(2)), no person shall cause or allow the open burning of any used or waste tire.

A violation of Section 55(a)(2) is alleged for the following reason: **Evidence of open burning of used or waste tires was observed during the inspection.**

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

A violation of 35 Ill. Adm. Code 812.101(a) is alleged for the following reason: **A waste disposal site was operated without submitting to the Illinois EPA an application for a permit to develop and operate a landfill.**

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
SITE SKETCH

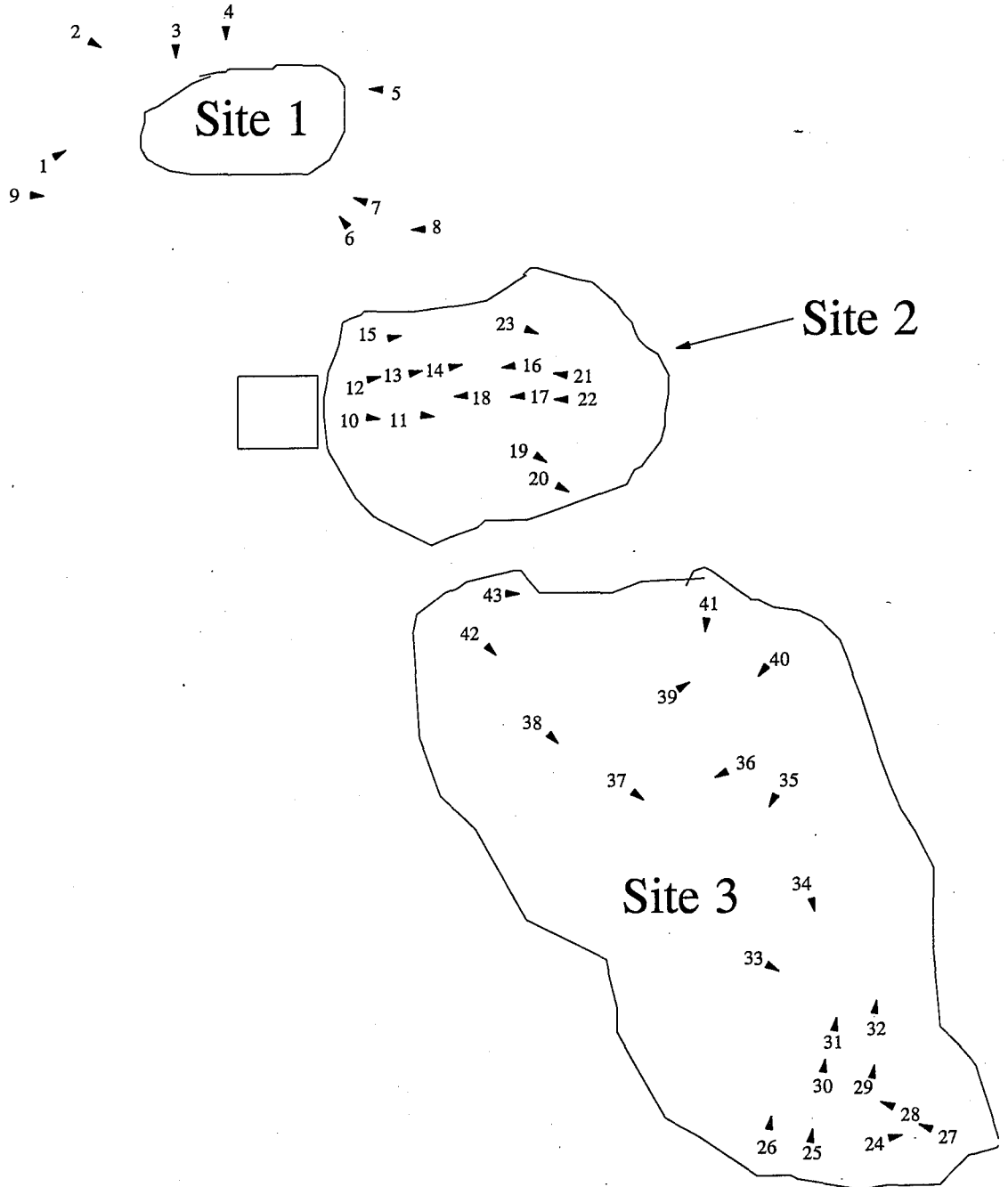
DATE OF INSPECTION: 06/19/03
SITE CODE: 0578255001
SITE NAME: Record Property

INSPECTOR(S): Robert J. Wagner
COUNTY: Fulton
TIME: 11:20 AM to 1:00 PM



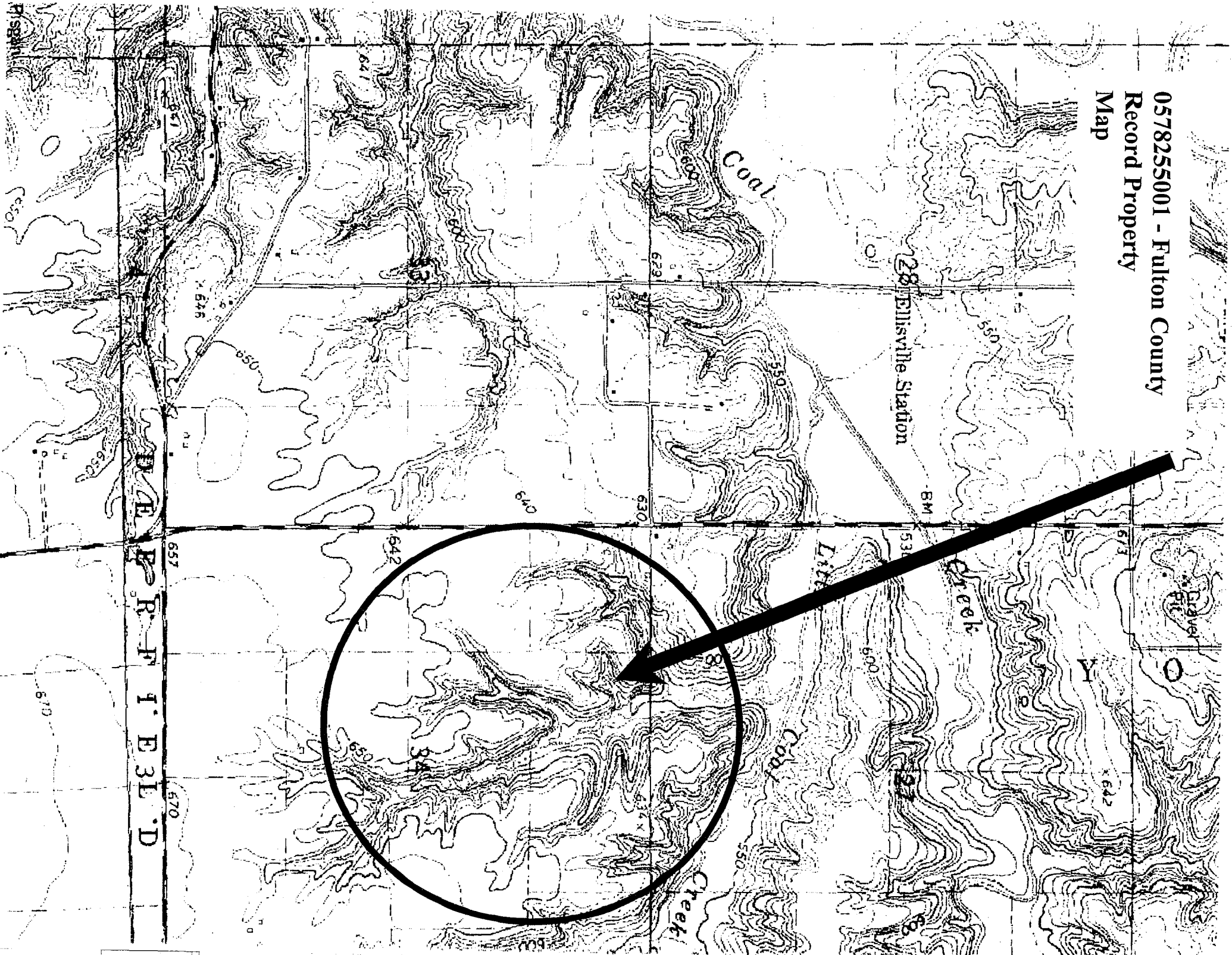
County Hwy 2

House



Drawing Not To Scale

0578255001 - Fulton County
Record Property
Map



0578255001 - Fulton County
Record Property
Aerial Photo

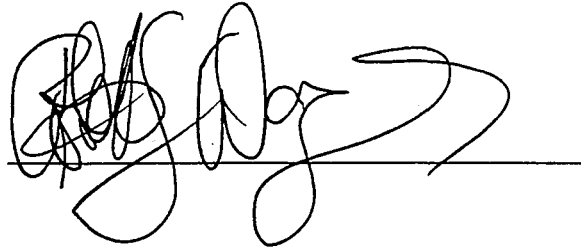
Site 1

Site 2

Site 3

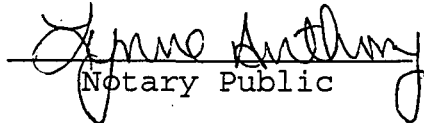
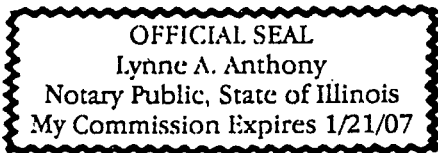


Affiant's observations and factual conclusions with respect to
Record Property open dump.



Subscribed and Sworn to before

me this 25 day of June



Notary Public

Fulton Co. 05781001
Farmington / Record

ILLINOIS POLLUTION CONTROL BOARD
October 4, 1978

RECEIVED
LPC/NPC
OCT 19 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
FRANK RECORD,)
)
Respondent.)

ENVIRONMENTAL PROTECTION AGENCY
STATE OF ILLINOIS

PCB 77-290

MR. JOHN VAN VRANKEN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. JAMES D. REYNOLDS, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed on November 7, 1977 by the Environmental Protection Agency (Agency). The Agency alleges that Respondent, Frank Record, has violated Rule 202(b)(1) of the Chapter 7: Solid Waste Rules and Regulations (Chapter 7) and Section 21(e) of the Environmental Protection Act (Act); and Rule 305(c) of Chapter 7 and Section 21(b) of the Act. A hearing was held in this matter on May 17, 1978.

The Board must make determinations on two offers of proof prior to considering the case. The Board will accept as exhibits Complainant Request to Admit Facts. No foundation is necessary under Procedural Rule 314 other than proof of service. Under the same Rule if no response or objection is received within twenty days after service the facts requested to be admitted are deemed admitted. In this case the facts requested to be admitted are deemed admitted. The second offer of proof concerns inspection reports made by Gilbert Stauffer submitted as Complainant's Exhibits 3-7. These exhibits were submitted as business records based on a foundation of testimony of Terry G. Ayers, an employee of the Agency. The Supreme Court Rules of Practice, Rule 236 provides that writing or record made in the regular course of business at the time of the event or within a reasonable time thereafter is admissible as evidence. The Rule further provides other circumstances--including lack of personal knowledge by the entrant or maker may be shown to affect its weight, but shall not affect its admissibility. The Board finds that Complainant's Exhibits marked 3-7 should be admitted as evidence.

Mr. Record stated that he had run a landfill at this site from 1958 to June 1977 (R. 15,16). He also stated that he has never had a permit for the site (R. 17). Respondent quit using the site in June 1977 (R. 16). At that time he had cover applied but he doesn't know how deep it was; he presumes two or three feet (R. 17, 18).

On August 5, 1977 a total of 14 borings were taken every 20 yards along the east central and west central areas of the site (Comp. Ex. 7). Of these borings, 10 had adequate cover (Comp. Ex. 7). The remaining borings showed six inches to one and one half feet of cover (Comp. Ex. 7). Two areas remained uncovered (Comp. Ex. 7). On May 15, 1978 an inspection was made (R. 25). It appeared cover had been recently applied; there was some surface litter (R. 25). Three borings were taken in the north-western portion of the site and two were taken in the eastern Section (R. 26). The cover was from six inches to one and one half feet deep (R. 26).

The Board finds that the admissions alone would be sufficient to find a violation of both operating without a permit in violation of Rule 202(b)(1) of Chapter 7 and Section 21(e) of the Act and failure to apply final cover in violation of Rule 305(c) and section 21(b) of the Act; however, the evidence presented at the hearing further substantiates both violations. The record does not provide much information concerning Section 33(c) of the Act. It is difficult to discern to what extent Mr. Record used the site in recent years. He states he takes the majority of his refuse to the city-county landfill in Peoria County or to the Fulton County Landfill (R. 16). According to Complainant's Exhibit 7, approximately five to six acres of an eight acre site have been filled. Mr. Record refers to the area as "a couple acres, two or three acres" (R. 20). No one establishes if this is the entire area used since 1958 or since July 27, 1974, the time the allegations of the complaint begin. The area is an old strip mine (R. 19). Leachate was observed falling from the north face into the strip mine pit and in one other area (R. 26). No geological information is provided.

It is apparent that an unlicensed landfill has been run here for a number of years. Respondent did know of the existence of the Agency and that there were prescribed rules concerning how to run a sanitary landfill (R. 18). Respondent has quit using the site and has made some attempt to place final cover; however, there is still work that needs to be done. The Board will require that Respondent either acquire the proper Agency operating permit or submit to the Agency a proper closure plan within 60 days of this order which shall be implemented within 90 days after Agency approval.

The Board will also assess a penalty of \$250 to aid the enforcement of the Act.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. Frank Record is found in violation of Rule 202(b)(1) of Chapter 7: Solid Waste Regulations and Section 21(e) of the Act and of Rule 305(c) of Chapter 7 and Section 21(b) of the Act.

② Respondent shall either obtain the proper Agency operating permit within 90 days of this order or submit to the Agency within 60 days of this order a proper closure plan which shall be implemented within 90 days of Agency approval.

3. Respondent shall pay a penalty of \$250 within 35 days of this order. Payment shall be by certified check or money order payable to:

(Nov. 8, 1978)

Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4th day of October, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board

WARRANTY DEED

THE GRANTOR'S C. V. Uhland and Hazel J. Uhland, his wife,

of the County of Adams and State of Illinois, for and in consideration of Ten (\$10.00) Dollars and other valuable consideration in hand paid, CONVEY and WARRANT to H. Frank Record and Mary Lou Record, husband and wife, not in joint tenancy but as tenants in common,

the following described Real Estate:

Tract I The Southwest Quarter and the West One-half of the Southeast Quarter of Section Twenty-seven (27), in Township Eight (8) North of the Base Line, Range Two (2) East of the Fourth Principal Meridian, containing Two Hundred Thirty-one and Seventy-six Hundredths (231.76) acres, more or less, all situated in the County of Fulton and State of Illinois, and

Tract II The Northwest Quarter of Section Thirty-four (34), in Township Eight (8) North of the Base Line, Range Two (2) East of the Fourth Principal Meridian, containing One Hundred Sixty (160) acres, more or less, all

FULTON COUNTY REAL ESTATE
TRANSFER TAX PAID \$120.00
R. RUMLER, CLERK RECORDER

91-40959
STATE OF ILLINOIS COUNTY OF FULTON
THIS INSTRUMENT FILED FOR RECORD ON THE
15th DAY OF April 1978
AT 10:30 O'CLOCK A.M. IN AND DUTY
RECORDED IN VOL. 1140, PAGE 273

R. R. Rumler
COUNTY CLERK & RECORDER

Fulton situated in the County of Adams, in the State of Illinois, hereby releasing and waiving all rights under and by virtue of the Homestead Exemption Laws of this State of Illinois. Subject to general property taxes for the year 1978, which the Grantees herein by acceptance of this Deed hereby assume and agree to pay.

Dated this 7th day of June A.D. 1978

C. V. Uhland
C. V. Uhland (SEAL)

Hazel J. Uhland
Hazel J. Uhland (SEAL)

STATE OF ILLINOIS,
COUNTY OF ~~ADAMS~~ Fulton

ss. Rosemarie Potts
a Notary Public in, and for said County and State aforesaid. DO HEREBY CERTIFY, that C. V. Uhland and Hazel J. Uhland, his wife,

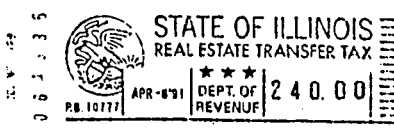


personally known to me to be the same person S whose nameS are they subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and official seal, this 2nd day of June A.D. 1978

Rosemarie Potts
NOTARY PUBLIC

DOCUMENTARY STAMPS



Exempt under provisions of Paragraph Section 4, Real Estate Transfer Tax Act.

Date Buyer, Seller or Representative

DEED PREPARED BY
Loos & Schnack, 510 Vermont Street Quincy, Illinois 62301

The tax statements for the year 1978 and subsequent years shall be sent to

NAME Mr. H. Frank Record ADDRESS R.R., Farmington, Illinois 61531

7d 15.00
John M. ...
270 Main, Canton

DATE: June 19, 2003

TIME: 11:27 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northeast.

PHOTOGRAPH NUMBER: 1

PHOTOGRAPH FILE NAME:
0578255001~06192003-001.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:28 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 2

PHOTOGRAPH FILE NAME:
0578255001~06192003-002.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:28 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 3

PHOTOGRAPH FILE NAME:
0578255001~06192003-003.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:28 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 4

PHOTOGRAPH FILE NAME:
0578255001~06192003-004.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:28 AM

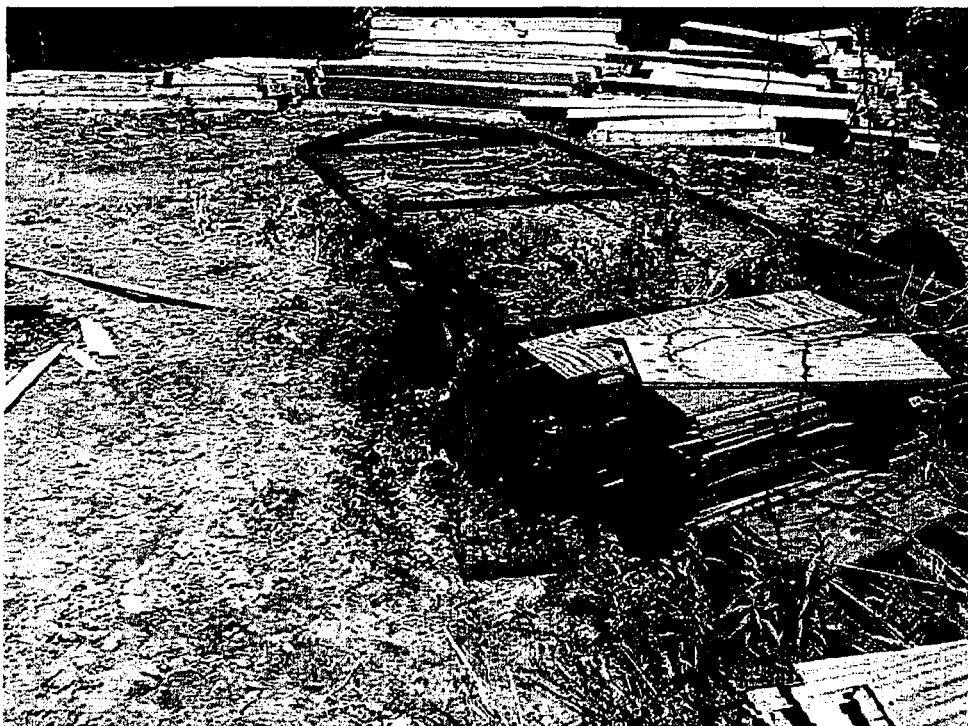
PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 5

PHOTOGRAPH FILE NAME:
0578255001~06192003-005.jpg

COMMENTS:



DATE: June 19, 2003

TIME: KEYBOARD

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 6

PHOTOGRAPH FILE NAME:
0578255001~06192003-006.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:29 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 7

PHOTOGRAPH FILE NAME:
0578255001~06192003-007.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:29 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 8

PHOTOGRAPH FILE NAME:
0578255001~06192003-008.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:34 AM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 9

PHOTOGRAPH FILE NAME:

0578255001~06192003-009.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:39 AM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 10

PHOTOGRAPH FILE NAME:

0578255001~06192003-010.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:39 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 11

PHOTOGRAPH FILE NAME:
0578255001~06192003-011.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:39 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 12

PHOTOGRAPH FILE NAME:
0578255001~06192003-012.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:39 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 13

PHOTOGRAPH FILE NAME:
0578255001~06192003-013.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:40 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 14

PHOTOGRAPH FILE NAME:
0578255001~06192003-014.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:41 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 15

PHOTOGRAPH FILE NAME:
0578255001~06192003-015.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:41 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 16

PHOTOGRAPH FILE NAME:
0578255001~06192003-016.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:41 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 17

PHOTOGRAPH FILE NAME:
0578255001~06192003-017.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:42 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 18

PHOTOGRAPH FILE NAME:
0578255001~06192003-018.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:43 AM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 19

PHOTOGRAPH FILE NAME:

0578255001~06192003-019.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:43 AM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 20

PHOTOGRAPH FILE NAME:

0578255001~06192003-020.jpg

COMMENTS:



DOCUMENT FILE NAME:

0578255001~06192003.doc

DATE: June 19, 2003

TIME: 11:44 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the west.

PHOTOGRAPH NUMBER: 21

PHOTOGRAPH FILE NAME:
0578255001~06192003-021.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:44 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the west.

PHOTOGRAPH NUMBER: 22

PHOTOGRAPH FILE NAME:
0578255001~06192003-022.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 11:44 AM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 23

PHOTOGRAPH FILE NAME:
0578255001~06192003-023.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:07 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northeast.

PHOTOGRAPH NUMBER: 24

PHOTOGRAPH FILE NAME:
0578255001~06192003-024.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:07 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 25

PHOTOGRAPH FILE NAME:
0578255001~06192003-025.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:07 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 26

PHOTOGRAPH FILE NAME:
0578255001~06192003-026.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 27

PHOTOGRAPH FILE NAME:
0578255001~06192003-027.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northwest.

PHOTOGRAPH NUMBER: 28

PHOTOGRAPH FILE NAME:
0578255001~06192003-028.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 29

PHOTOGRAPH FILE NAME:
0578255001~06192003-029.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 30

PHOTOGRAPH FILE NAME:
0578255001~06192003-030.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 31

PHOTOGRAPH FILE NAME:
0578255001~06192003-031.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:09 PM

PHOTOGRAPHED BY:

Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 32

PHOTOGRAPH FILE NAME:
0578255001~06192003-032.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:10 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 33

PHOTOGRAPH FILE NAME:
0578255001~06192003-033.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:11 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southeast.

PHOTOGRAPH NUMBER: 34

PHOTOGRAPH FILE NAME:
0578255001~06192003-034.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:11 PM

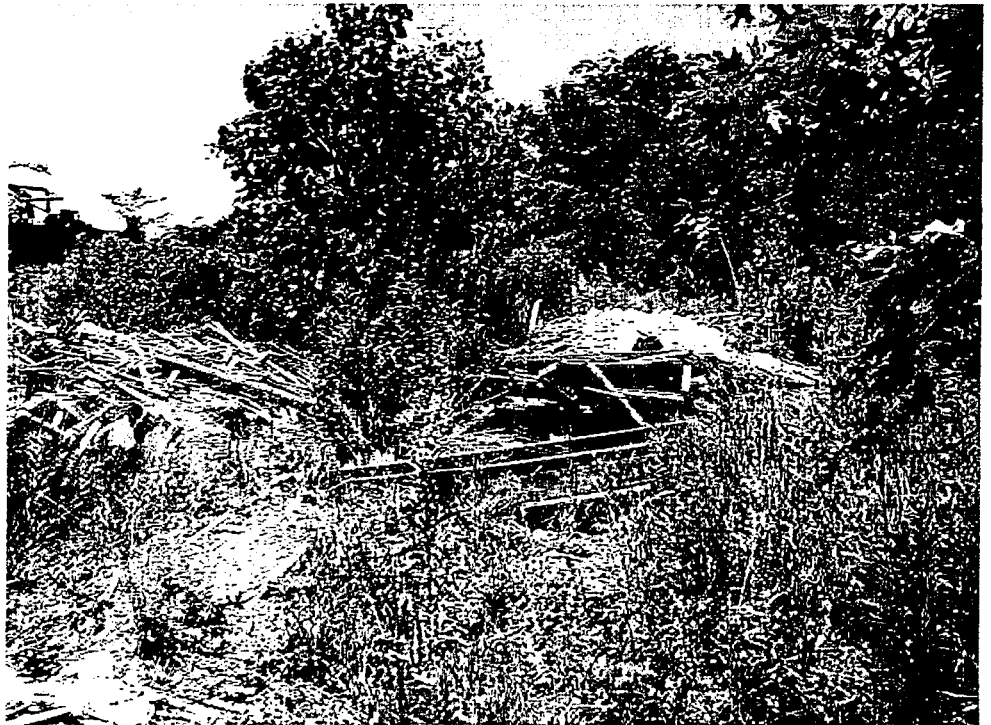
PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the west.

PHOTOGRAPH NUMBER: 35

PHOTOGRAPH FILE NAME:
0578255001~06192003-035.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:11 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southwest.

PHOTOGRAPH NUMBER: 36

PHOTOGRAPH FILE NAME:
0578255001~06192003-036.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:11 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the southwest.

PHOTOGRAPH NUMBER: 37

PHOTOGRAPH FILE NAME:
0578255001~06192003-037.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:12 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 38

PHOTOGRAPH FILE NAME:
0578255001~06192003-038.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:13 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the northeast.

PHOTOGRAPH NUMBER: 39

PHOTOGRAPH FILE NAME:
0578255001~06192003-039.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:14 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the south.

PHOTOGRAPH NUMBER: 40

PHOTOGRAPH FILE NAME:
0578255001~06192003-040.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:16 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the north.

PHOTOGRAPH NUMBER: 41

PHOTOGRAPH FILE NAME:
0578255001~06192003-041.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:17 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 42

PHOTOGRAPH FILE NAME:
0578255001~06192003-042.jpg

COMMENTS:



DATE: June 19, 2003

TIME: 12:18 PM

PHOTOGRAPHED BY:
Robert J. Wagner

DIRECTION: Photograph taken
toward the east.

PHOTOGRAPH NUMBER: 43

PHOTOGRAPH FILE NAME:
0578255001~06192003-043.jpg

COMMENTS:



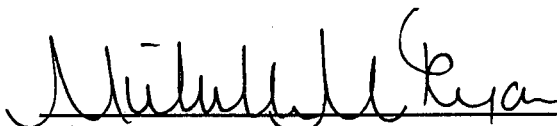
PROOF OF SERVICE

I hereby certify that I did on the 11th 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: Mary Lou Record and
H. Frank Record d/b/a Quality Disposal
31011 North County Highway 2
Ellisville, Illinois 61431

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