



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

RECEIVED
CLERK'S OFFICE

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-8397
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-814-6026

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

JUN 04 2004
STATE OF ILLINOIS
Pollution Control Board

(217) 782-9817
TDD: (217) 782-9143

June 2, 2004

AC04-82

The Honorable Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Re: Illinois Environmental Protection Agency v. John Brown d/b/a John Brown Painting
IEPA File No. 270-04-AC; 1270155057—Massac County

Dear Clerk Gunn:

Enclosed for filing with the Illinois Pollution Control Board, please find the original and nine true and correct copies of the Administrative Citation Package, consisting of the Administrative Citation, the inspector's Affidavit, and the inspector's Illinois Environmental Protection Agency Open Dump Inspection Checklist, issued to the above-referenced respondent(s).

On this date, a copy of the Administrative Citation Package was sent by messenger mail to an inspector from the Marion Regional Office to be delivered to Respondent via hand delivery. As soon as I receive the affidavit of service, I will promptly file a copy with you, so that the Illinois Pollution Control Board may calculate the thirty-five (35) day appeal period for purposes of entering a default judgment in the event the Respondent(s) fails or elects not to file a petition for review contesting the Administrative Citation.

If you have any questions or concerns, please do not hesitate to contact me at the number above. Thank you for your cooperation.

Sincerely,

Michelle M. Ryan
Assistant Counsel

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JUN 04 2004

STATE OF ILLINOIS
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

JOHN BROWN d/b/a JOHN BROWN
PAINTING,

Respondent.

AC

04-82

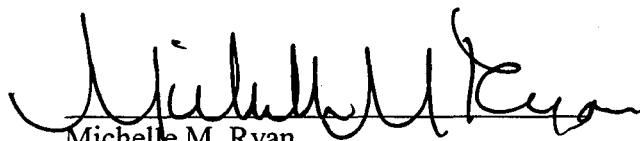
(IEPA No. 270-04-AC)

NOTICE OF FILING

To: John Brown
955 Country Club Road
Metropolis, Illinois 62960

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: June 2, 2004

RECEIVED
CLERK'S OFFICE

STATE OF ILLINOIS
Pollution Control Board

AC 04-82

(IEPA No.270-04 -AC)

1. That John Brown ("Respondent") is the present owner of a facility located at 955 Country Club Road just north of Metropolis, Massac County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Metropolis/John Brown Painting.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1270155057.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on April 7, 2004, Kent Johnson of the Illinois Environmental Protection Agency's Marion 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 Kent Johnson during the course of his April 7, 2004 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

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 Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than June 30, 2004, 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 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: 6/2/04

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.

JOHN BROWN d/b/a JOHN BROWN
PAINTING,

Respondent.

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AC

(IEPA No. 270-04-AC)

FACILITY: Metropolis/John Brown Painting

SITE CODE NO.: 1270155057

COUNTY: Massac

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: April 7, 2004

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.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY)

Complainant,)

v.)

JOHN BROWN)

Respondent.)

IEPA DOCKET NO.

AFFIDAVIT

Affiant, Kent Johnson, 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 April 7, 2004, between 3:20 P.M. and 3:27 P.M., Affiant conducted an inspection of a disposal site operated without an Agency permit, located in Massac County, Illinois, and known as the John Brown Painting site by the Illinois Environmental Protection Agency. Said site has assigned site code number 1270155057.

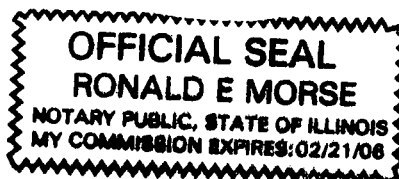
3. Affiant inspected said John Brown Painting site by an on-site inspection which included walking and photographing the site.

4. As a result of the material actions referred to in Paragraph 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 said John Brown Painting site.

Subscribed and Sworn to before me

this 12th day of May, 2004.

Ronald E. Morse
Notary Public



Kent Johnson

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Massac LPC#: 1270155057 Region: 7 - Marion

Location/Site Name: Metropolis/John Brown Painting

Date: 04/07/2004 Time: From 3:20 PM To 3:27 PM Previous Inspection Date: 10/23/2003

Inspector(s): K. Johnson Weather: Partly cloudy, mild, dry soil

No. of Photos Taken: # 3 Est. Amt. of Waste: 25 yds³ Samples Taken: Yes # No ☒

Interviewed: Kim Brown Complaint #: C-04-045-M

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

John Brown Painting
955 Country Club Road
Metropolis, IL 62960
618/524-1026

	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 # 1270155057

Inspection Date: 04/07/2004

	(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"/>

Kent A. Johnson

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Bureau of Land

**LPC # 1270155057 — Massac County
Metropolis/John Brown Painting
Inspector K. Johnson
April 7, 2004
FOS File**

Open Dump Inspection Report Narrative

This unpermitted site was inspected on April 7, 2004 by this author representing the Agency. The investigation was conducted as a follow-up inspection to an October 23, 2003 inspection that revealed the open dumping and open burning of demolition debris and other solid waste. The inspection took place from approximately 3:20 to 3:27 P.M., and three photos were taken during that time {Photos 001-003}. Weather at the time of the inspection was partly cloudy and mild with dry soil. Ms. Kim Brown was interviewed at the time of the inspection. Trooper John Hunt of the Illinois State Police accompanied me to the site for security purposes. No samples were taken on this date.

General Remarks

This facility is located at 955 Country Club Road just north of Metropolis, IL (62960). The property is apparently owned and operated by John Brown, who lives at and receives mail at the above address. Mr. Brown's phone number is 618/524-1026, his FAX number is 618/524-7973, and his cell phone number is 270/366-2083. This location serves as both Mr. Brown's residence and a home base for his business, painting water towers. On this date, a real estate sign was present in the front yard, and Ms. Brown said that they were selling their property due to problems with neighbors.

Inspection Findings

Trooper Hunt escorted me to the site, and we pulled into the driveway. Shortly thereafter, a woman emerged from the house and asked if she could help us. I identified myself as well as the nature of the inspection. She later identified herself as Kim Brown, also indicating that she was not aware of any letters from the Illinois EPA. I explained that the Agency's certified letter was unclaimed, but did not return when it was re-sent via first class mail. Ms. Brown surmised that her son may have done something with it, thinking it was bad news from school, or her husband may have kept it and not said anything about it. Regardless, Ms. Brown indicated during this inspection that she would take care of the clean-up herself.

After we discussed the letter and the background of the case, I advised Ms. Brown that I would like to go back and take a look at the debris pile. She agreed, and accompanied me to the back of the property while Trooper Hunt waited at the driveway. I advised Ms. Brown that additional information had been received to indicate that new waste had been brought to the site. She pointed out that the pile was unchanged; the pile did appear to be in largely the same condition as

the previous inspection in October 2003 {Photos 001-003}. The pile was approximately 20' in diameter, containing an estimated 25 cubic yards of waste. Ms. Brown said that the ground had been too wet to allow for clean-up, but that she would personally take care of organizing the clean-up. I finished making site observations, answered Ms. Brown's questions with regard to the logistics of completing the clean-up, and left the site shortly thereafter. Trooper Hunt left the site at the same time.

Summary of Inspection Findings

On this date, the pile did not appear to have been burned recently, and there did not appear to be new waste added to the pile. Since no evidence of open burning was noted, the violations relating to open burning will be considered technically resolved as of the date of this inspection. For reference, those alleged violations resolved are Sections 9(a), 9(c), and 21(p)(3) of the [Illinois] Environmental Protection Act (the Act). It is noted that soil conditions were dry on this date, and the previous inspection was conducted nearly six months prior to this date. In addition, there has been no documentation provided to indicate the proper disposal of either the demolition debris or the blasting media noted during the previous inspection. Therefore, the open dumping violations and permit violations will remain outstanding at this time.

Violations of Sections 21(a), 21(p)(1), and 21(p)(7) are being cited because waste, specifically demolition debris and blasting media, has been open dumped at this site, resulting in litter.

Violations of Sections 21(d)(1) and 812.101(a) are being cited because waste has been brought to this site, in spite of the fact that this facility is not a permitted waste-storage or waste-disposal facility. Further, no application for a permit has apparently been submitted for this facility.

Violations of Sections 21(d)(2) and 21(e) are being cited because violations of the Act and 35 Ill. Adm. Code were observed at the time of this inspection.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

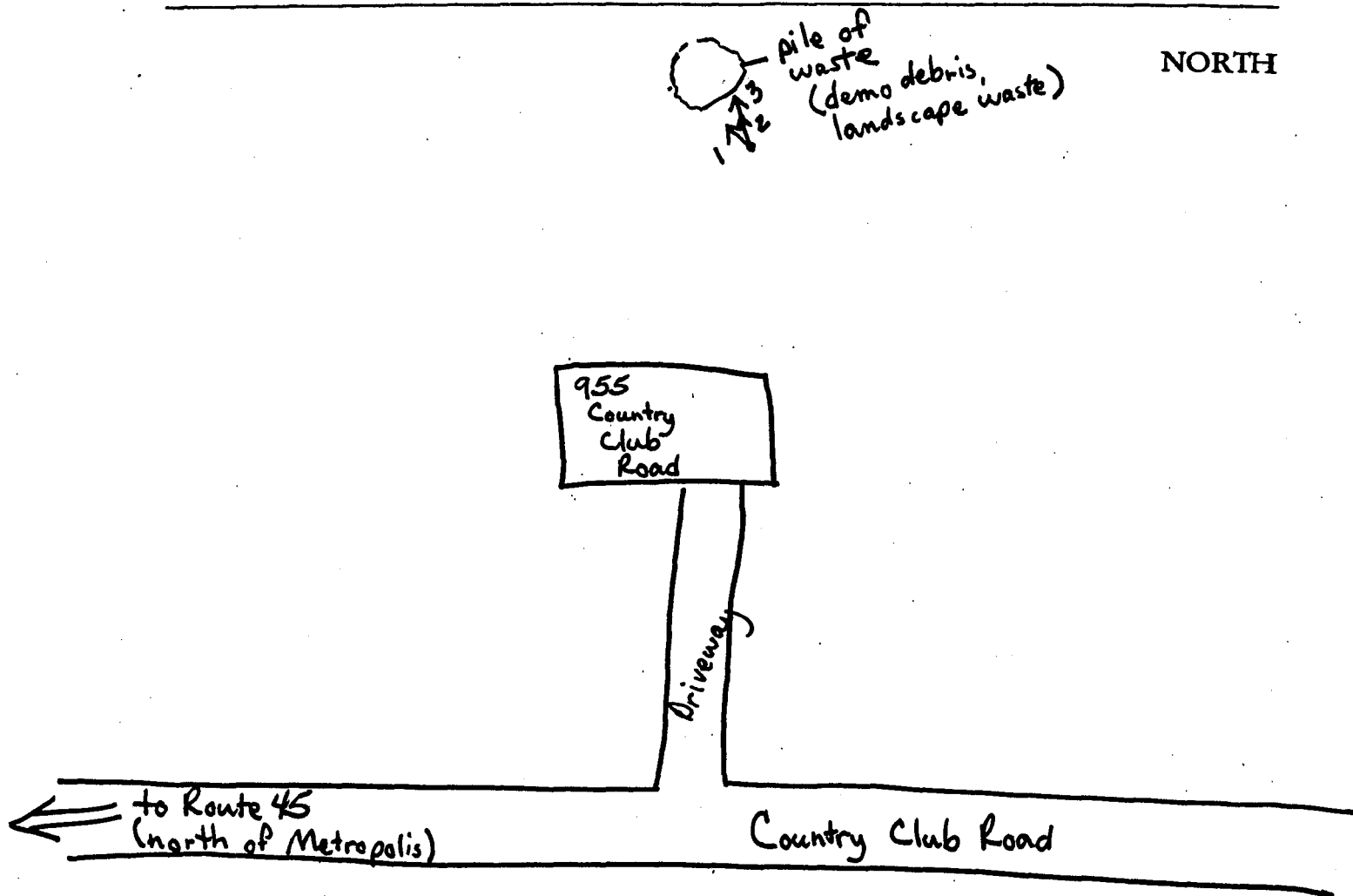
Inspection Date: April 7, 2004

Inspector: K. Johnson

LPC #: 127 015 5057

County: Massac

Site Name: Metropolis/John Brown Painting



Site sketch is not to scale.

LPC # 1270155057 — Massac County
Metropolis/John Brown Painting
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 4/7/04
TIME: 3:22 PM
DIRECTION: Northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1270155057~04072004-001
COMMENTS:



DATE: 4/7/04
TIME: 3:22 PM
DIRECTION: North-
northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1270155057~04072004-002
COMMENTS:



LPC # 1270155057 — Massac County
Metropolis/John Brown Painting
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 4/7/04
TIME: 3:23 PM
DIRECTION: North-
northwest
PHOTO by: K. Johnson
PHOTO FILE NAME:
1270155057~04072004-003
COMMENTS:



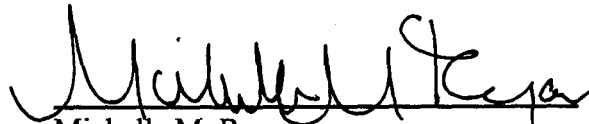
PROOF OF SERVICE

I hereby certify that I did on the 2nd day of June, 2004 send by messenger mail to the Marion 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: John Brown
955 Country Club Road
Metropolis, Illinois 62960

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
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