

**RECEIVED**  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD SEP 08 2003  
ADMINISTRATIVE CITATION

STATE OF ILLINOIS  
*Pollution Control Board*

COUNTY OF VERMILION, ILLINOIS, )  
)  
Complainant, )  
)  
v. )  
)  
BILL WERNIGK, )  
)  
Respondent. )

AC No. 04-00  
County File No. 03-02

**JURISDICTION**

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by sections 4(e) and 31.1 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4(e), 5/31.1, and delegated to Vermilion County pursuant to section 4(r) of the Act, 415 ILCS 5/4(r).

**FACTS**

1. Respondent, Bill Wernigk, is, and was at all times relevant to this Administrative Citation, the occupant and operator of property located at 3585 East 3200 North Road, Potomac, County of Vermilion, State of Illinois.
2. Said property is operated as an unlicensed open dump, and designated with Illinois Environmental Protection Agency Site Code No. 1838115002.
3. On July 8, 2003, Douglas Toole of the Vermilion County Health Department inspected the above-described property. Douglas Toole's Affidavit and a copy of his inspection report are attached hereto and made a part hereof by reference.

**VIOLATIONS**

On the basis of the direct observation of Douglas Toole, the County of Vermilion has determined that on July 8, 2003, Respondent was conducting an unlicensed open dump at the above-described address, which is required to have a permit pursuant to 415 ILCS 5/21(a) of the Act, in a manner which resulted in the following conditions:

- A. Open dumping resulting in litter was observed at the site, in violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in ...litter; and
- B. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site, in violation of

Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7), which provides no person shall...cause or allow the open dumping of any waste in a manner which results in...the deposition of general construction or demolition debris; or clean construction or demolition debris.

### **CIVIL PENALTY**

Pursuant to section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), Respondent herein is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1500.00) for each of the above-mentioned violations. Additionally, should Respondent elect to petition the Illinois Pollution Control Board under the review process described herein, and if there is a finding of the violation alleged herein after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Pollution Control Board, in addition to the One Thousand Five Hundred Dollar (\$1500.00) statutory penalty for each violation.

### **PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION**

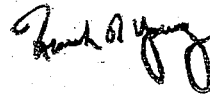
You have the right to contest this Administrative Citation under section 31.1(d) of the Act, 415 ILCS 5/31.1(d). If you elect to contest this Administrative Citation, you must file a Petition for Review with the Clerk of the Illinois Pollution Control Board, at the State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. Such Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation, or a default judgment will be issued by the Illinois Pollution Control Board. A copy of the Petition for Review should be filed with the Vermilion County State's Attorney's Office, 7 North Vermilion Street, Danville, Illinois 61832.

If you acknowledge the violation cited herein, the civil penalty specified above shall be due and payable no later than September 11. If you do not petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of service hereof and have not paid the civil penalty by the due date stated above, or if you elect to contest this Administrative Citation, any judgment rendered shall specify the due date of the statutory civil penalty and any costs assessed against you.

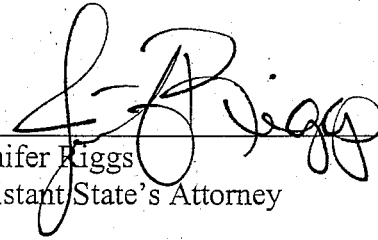
When payment is made, your check should be made payable to the County of Vermilion, Illinois, and mailed to the Vermilion County Health Department, 200 South College Street, Danville, Illinois 61832, together with a completed copy of the Remittance Form attached hereto.

If any civil penalty, by reason of acknowledgment, default or finding after adjudicatory hearing, is not paid when due, the Vermilion County State's Attorney may initiate proceedings in the Circuit Court to collect said civil penalty. In addition to the previously assessed civil penalty and any hearing costs of the Illinois Pollution Control Board, the State's Attorney's Office will seek to recover its costs of litigation.

Dated: 8/7/03



\_\_\_\_\_  
Frank R. Young  
State's Attorney for Vermilion County



By: \_\_\_\_\_  
Jennifer Riggs  
Assistant State's Attorney

Prepared by:  
Jennifer Riggs  
Office of the State's Attorney  
7 N. Vermilion St.  
Danville, IL 61832  
217-554-7750

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CLERK'S OFFICE

SEP 08 2003

**STATE OF ILLINOIS**  
**POLLUTION CONTROL BOARD**  
**REMITTANCE FORM**

IN THE MATTER OF )  
 )  
BILL WERNIGK, )  
 )  
Respondent. )

AC No. 0410  
County File No. 03-02

Facility/Property: 3585 East 3200 North Road, Potomac, Illinois

County: Vermilion

Date of Inspection: July 8, 2003

Site Code No.: 1838115002

Civil Penalty: \$1500.00 for each violation = \$3000.00

Date Remitted: \_\_\_\_\_

SSN/FEIN No.: \_\_\_\_\_

Signature: \_\_\_\_\_

**NOTE**

Please enter the date of your remittance, your Social Security Number (SSN) if an individual, or Federal Employer Identification Number (FEIN) if a business, and sign this Remittance Form. Your check should be made out to the County of Vermilion, Illinois. Be sure your check is enclosed with this Remittance Form and mail to: Vermilion County Health Department, 200 S. College Street, Danville, Illinois 61832.

RECEIVED  
CLERK'S OFFICE

SEP 08 2003

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

AFFIDAVIT

IN THE MATTER OF  
BILL WERNIGK,

)  
)  
)  
Respondent. )

AC No. 04-00  
County File No. 03-02

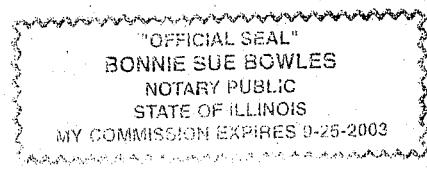
The Affiant, Douglas Toole, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Vermilion County Health Department and has been so employed at all times pertinent hereto.
2. On July 8, 2003, between 1:00 and 1:05 p.m., Affiant conducted an inspection of property at 3585 East 3200 North Road, within the County of Vermilion, State of Illinois, operated by Bill Wernigk.
3. Affiant inspected the property by an on-site inspection, which included walking on the site.
4. Prior to said inspection, Affiant had reviewed Illinois Environmental Protection Agency permits issued to the subject site.
5. As a result of the activities referred to in paragraphs 2, 3 and 4 above, Affiant completed the Solid Waste Landfill Inspection Checklist, with the accompanying Inspection Report Narrative, Site Sketch and photographs, 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 the property at 3585 East 3200 North Road, Potomac, Illinois on July 8, 2003.

*Douglas Toole*  
\_\_\_\_\_  
Douglas Toole

SIGNED and SWORN to before me this 26 day of August, 2003, by Douglas Toole.

*Bonnie Sue Bowles*  
NOTARY PUBLIC



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

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 SEP 08 2003  
 STATE OF ILLINOIS  
 Region 1  
 Pollution Control Board

AC04-10

County: VERMILION LPC#: 1838115002

Location/Site Name: MIDDLEFORK / WERNIGK

Date: 7/8/03 Time: From 1:00 P.M. To 1:05 P.M. Previous Inspection Date: 1/13/03

Inspector(s): DOUGLAS TOOLE Weather: CLOUDY, DRY, 90°F

No. of Photos Taken: # 04 Est. Amt. of Waste: 120 yds<sup>3</sup> Samples Taken: Yes # \_\_\_\_\_ No

Interviewed: \_\_\_\_\_ Complaint #: \_\_\_\_\_

**BILL WERNIGK**  
 3585 E. 3200 NORTH ROAD  
 POTOMAC, IL 61865

**JAMES DUKEMAN**  
 511 HILL CREST DRIVE  
 APEX, NC 27502

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

SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>		
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"/>



PUBLIC HEALTH IS PRICELESS

# VERMILION COUNTY HEALTH DEPARTMENT

STEPHEN LAKER, M.S.  
PUBLIC HEALTH ADMINISTRATOR

HEALTH AND EDUCATION BUILDING  
200 SOUTH COLLEGE, SUITE A  
DANVILLE, IL 61832  
PHONE/TDD 217 431-2662  
FAX 217 431-7483

LPC #1838115002  
Middlefork/Wernigk  
FOS  
7/08/03

## OPEN DUMP INSPECTION NARRATIVE

This unpermitted open dump was reinspected on July 8, 2003 by Douglas Toole of the Vermilion County Health Department. The weather was cloudy, dry and about 90 degrees Fahrenheit. Four photos were taken of the site.

The site is located in Vermilion County, northeast of the intersection of Vermilion County roads 3200 North and 350 East in rural Potomac. The address of the house on the property is 3585 E. 3200 North Road, Potomac. Bill Wernigk and his family live on the property. County records indicate the property is owned by James Dukeman of North Carolina.

## INSPECTORS FINDINGS

By way of background, I had investigated incidents of open dumping and open burning of demolition waste and other refuse on the property starting in September 2000. The Wernigks brought the site into general compliance in January 2002. On January 13, 2003, I observed large piles of refuse behind the Wernigk's home.

I arrived on the property at about 1:00 p.m. on July 8, 2003. No one accompanied me during the reinspection. In January, I had observed stuffed furniture, plastic pipe, boards, concrete blocks and other refuse in two piles north of the house. During this inspection, I observed piles of dirt, concrete, remodeling and demolition debris, as well as some scrap metal, tires and other refuse (photos 1-4). I did not observe evidence of recent burning. I left the site at about 1:05 p.m.

On the Inspection Report Checklist for this reinspection, I estimated that there were 120 cubic yards of waste in the two piles on the site. No measurements were performed to arrive at that estimation, only my observations at the time. The actual amount of waste on the site may vary significantly from that estimation.



LPC #1838115002  
Middlefork/Wernigk  
7/08/03  
Page 2 of 3

## SUMMARY OF APPARENT VIOLATIONS

### ILLINOIS ENVIRONMENTAL PROTECTION ACT (415 ILCS 5/1 et seq.)

Section 21 (a) of the Act: No person shall ... cause or allow the open dumping of any waste. Open dumping was observed on the site.

Section 21 (d)(1) of the Act: No person shall ... conduct any waste storage, waste-treatment, or waste-disposal operation without ... a permit granted by the Agency. No Agency permit to conduct a waste storage, waste-treatment, or waste-disposal operation for the site was issued.

Section 21 (d)(2) of the Act: 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 the Act. Violations of the Illinois Pollution Control Board Regulations were observed at the site where waste storage, waste-treatment, or waste-disposal operations were taking place.

Section 21(e) of the Act: No person shall ... dispose, treat, store or abandon any waste ... except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder. The storage and disposal of waste was occurring at a site which did not meet the requirements of the Illinois Environmental Protection Act and the Illinois Pollution Control Board Regulations.

Section 21 (p)(1) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... litter. Open dumping resulting in litter was observed at the site.



LPC #1838115002  
Middlefork/Wernigk  
7/08/03  
Page 3 of 3

Section 21 (p)(7) of the Act: No person shall ... cause or allow the open dumping of any waste which results in ... the deposition of general construction or demolition debris; or clean construction or demolition debris. Open dumping resulting in the deposition of general and clean construction and demolition debris was observed at the site.

Section 55 (a)(1) of the Act: No person shall ... cause or allow the open dumping of any used or waste tire. Open dumping of waste tires was observed at the site.

ILLINOIS POLLUTION CONTROL BOARD; 35 ILLINOIS ADMINISTRATIVE CODE,  
SUBTITLE G  
(REGULATIONS)

Section 812.101 of the Regulations: ... All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) [415 ILCS 5/21(d)], shall submit to the Agency an application for a permit to develop and operate a landfill. The application must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817. No such application for a permit to develop and operate a landfill was submitted.

STATE OF ILLINOIS  
ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

Date of Inspection: JULY 8, 2003

Inspector: DOUGLAS TOOLE

Site Code: 1 8 3 8 1 1 5 0 0 2

County: VERMILION

Site Name: MIDDLEFORK / WERNIGK

Time: 1:00 - 1:05 P.M.

4 N

370E  
ROAD



House


3200 N ROAD

350 E  
ROAD

Printed on Recycled Paper



# INSPECTION PHOTOS


DATE: <u>7 / 08 / 03</u>	SITE #: <u>1 8 3 8 1 1 5 0 0 2</u> CO.: <u>VERMILION</u>
TIME: <u>1:03 P.M.</u>	SITE NAME: <u>MIDDLEFORK / WERNIGK</u>
PHOTOGRAPH TAKEN BY: <u>DOUGLAS TOOLE</u>	
COMMENTS: Pictures taken toward: <u>NW</u>	
<u>OVERVIEW OF SITE;</u>	
<u>1ST OF 2 PANORAMIC SHOTS</u>	
ROLL #:            PHOTO #: <u>1</u>	

DATE: <u>7 / 08 / 03</u>
TIME: <u>1:03 P.M.</u>
PHOTOGRAPH TAKEN BY: <u>DOUGLAS TOOLE</u>
COMMENTS: Pictures taken toward: <u>NE</u>
<u>OVERVIEW OF SITE;</u>
<u>2ND OF 2 PANORAMIC SHOTS</u>
ROLL #:            PHOTO #: <u>2</u>





# INSPECTION PHOTOS

DATE: <u>7 / 08 / 03</u>	SITE #: <u>1 8 3 8 1 1 5 0 0 2</u> CO.: <u>VERMILION</u>
TIME: <u>1:04 P.M.</u>	SITE NAME: <u>MIDDLEFORK / WERNIGK</u>
PHOTOGRAPH TAKEN BY: <u>DOUGLAS TOOLE</u>	
COMMENTS: Pictures taken toward: <u>NW</u>	
<u>NORTHWEST PART OF SITE</u>	
ROLL #:      PHOTO #: <u>3</u>	

DATE: <u>7 / 08 / 03</u>
TIME: <u>1:04 P.M.</u>
PHOTOGRAPH TAKEN BY: <u>DOUGLAS TOOLE</u>
COMMENTS: Pictures taken toward: <u>N</u>
<u>NORTH PART OF SITE</u>
ROLL #:      PHOTO #: <u>4</u>



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SEP 08 2003

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

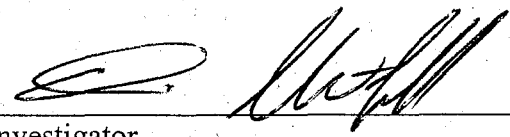
IN THE MATTER OF )  
 )  
BILL WERNIGK, ) AC No. 0410  
 ) County File No. 03-02  
 )  
Respondent. )

AFFIDAVIT OF SERVICE ON CORPORATION

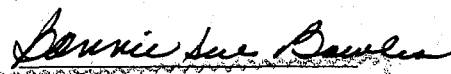
State of Illinois )  
 ) ss  
County of Vermilion )

I, the undersigned, on oath state that I have served the attached Administrative Citation on the Respondent, Bill Wernigk, by leaving a copy of the same with (name):

Trisha Harding, at (address): 3585 E. 3200 A. Rd at (time):  
2:25 P.M., on (date): 9/2/03, 2003.

  
Investigator  
Vermilion County State's Attorney Office

SUBSCRIBED AND SWORN TO BEFORE ME this 3rd day of Sept, 2003.

  
NOTARY PUBLIC  
BONNIE SUE BOWLES  
NOTARY PUBLIC  
STATE OF ILLINOIS  
COMMISSION EXPIRES 0-25-2003

THIS FILING IS SUBMITTED ON RECYCLED PAPER