



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

RECEIVED
CLERK'S OFFICE

1021 NORTH GRAND AVENUE EAST, P.O. Box 19276, SPRINGFIELD, ILLINOIS 62794-9276, 217-782-3397

JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601, 312-800-0200

JUL 01 2004

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

STATE OF ILLINOIS
Pollution Control Board

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

ACOS-02

June 29, 2004

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. Lester Smith
IEPA File No. 299-04-AC; 1278015002—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 to the Respondent(s) via Certified Mail. As soon as I receive the return receipt, 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

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ADMINISTRATIVE CITATION

JUL 01 2004

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Complainant,)
)
 v.)
)
 LESTER SMITH,)
)
 Respondent.)

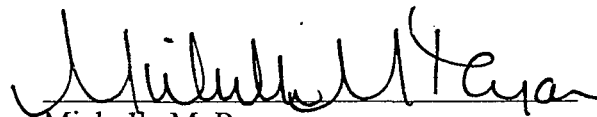
AC 05-02
 (IEPA No. 299-04-AC)

NOTICE OF FILING

To: Lester Smith
 3913 Upper Salem 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 29, 2004

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUL 01 2004

ADMINISTRATIVE CITATION

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LESTER SMITH,)
)
Respondent.)

AC *05-02*
(IEPA No. 299-04-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 Lester Smith ("Respondent") is the present owner of a facility located at 3913 Upper Salem Road northwest of Metropolis, Massac County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Metropolis/Smith, L. (Lester Smith).
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 1278015002.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on May 21, 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 May 21, 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).

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 One Thousand Five Hundred Dollars (\$1,500.00). 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 July 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 wce*
Illinois Environmental Protection Agency

Date: 6/29/04

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.)
)
LESTER SMITH,)
)
 Respondent.)

AC
(IEPA No. 299-04-AC)

FACILITY: Metropolis/Smith L. (Lester Smith) SITE CODE NO.: 1278015002
COUNTY: Massac CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: May 21, 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.)
)
LESTER SMITH)
)
)
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 May 21, 2004, between 12:55 P.M. and 1:03 P.M., Affiant conducted an inspection of a disposal site operated without an Agency permit, located in Massac County, Illinois, and known as the L. Smith site by the Illinois Environmental Protection Agency. Said site has assigned site code number 1278015002.
3. Affiant inspected said L. Smith 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 L. Smith site.

Kent R. Johnson

Subscribed and Sworn to before me
this 21st day of June, 2004.

Linda G. Knight
Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY
Open Dump Inspection Checklist

County: Massac LPC#: 1278015002 Region: 7 - Marion
 Location/Site Name: Metropolis/Smith, L.
 Date: 05/21/2004 Time: From 12:55 PM To 1:03 PM Previous Inspection Date: 01/05/2001
 Inspector(s): K. Johnson, S. Williams Weather: Hot, sunny, mild-moderate wind, damp soil
 No. of Photos Taken: # 4 Est. Amt. of Waste: 30 yds³ Samples Taken: Yes # No
 Interviewed: None; inspection conducted from off-site Complaint #: C-00-054-M

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

Lester & Nancy Smith
 3913 Upper Salem Road
 Metropolis, IL 62960

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 JUN 07 2004
 IEPA-DLPC

	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 type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input 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 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 # 1278015002

Inspection Date: 05/21/2004

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input 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 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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Bureau of Land

LPC # 1278015002 - Massac County
Metropolis/Smith, L. (Lester Smith)
May 21, 2004
Inspector Kent Johnson
FOS File

Open Dump Inspection Report Narrative

This site was inspected on May 21, 2004 by this author and Sheila Williams representing the Agency. The inspection was conducted as a follow-up to a January 5, 2001 inspection that revealed ongoing concerns relating to open dumping. The inspection took place from approximately 12:55 to 1:03 P.M., and four photos were taken during the inspection {Photos 001-004}. Weather during the inspection was hot and sunny with mild to moderate wind and damp soil conditions. No interviews were conducted, and no samples were taken during this inspection.

General Remarks/Inspection Findings

This site is located at 3913 Upper Salem Road northwest of Metropolis, Illinois 62960. Lester and Nancy Smith apparently own and live on the property with mail being sent to the above address. Their phone number is unlisted.

Ms. Williams and I arrived at the site, making observations from the cemetery to the west of the site. While it was difficult to see due to heavy vegetation, observations from a point near the northwest corner of the property revealed at least 3 automobiles, 6 fifty-five gallon metal drums, piles of wood, piles of metal, and other miscellaneous waste. It is noted that many of these items were in deteriorated condition, and the presence of undisturbed vegetation reveal no systematic use of materials near the north end of the site. The contents of the drums are unknown at this time. Since observations from off-site indicated ongoing concerns of open dumping, and heavy vegetation was present throughout the north end of the site, I decided not to conduct an on-site inspection at this time.

Summary of Inspection Findings

Items on-site may have salvage value, but have apparently remained on-site on the ground since at least 1997. It is noted for reference that Mr. Smith has committed on two separate occasions to cleaning up the site. The first deadline was October 1998, with the most recent being October 2001. As such, the following violations are still outstanding and are again being cited at this time.

Violations of sections 21(a), and 21(p)(1) are cited because waste including automobiles, metal, wood, and at least 6 drums have been open dumped resulting in litter at this facility.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

SITE SKETCH

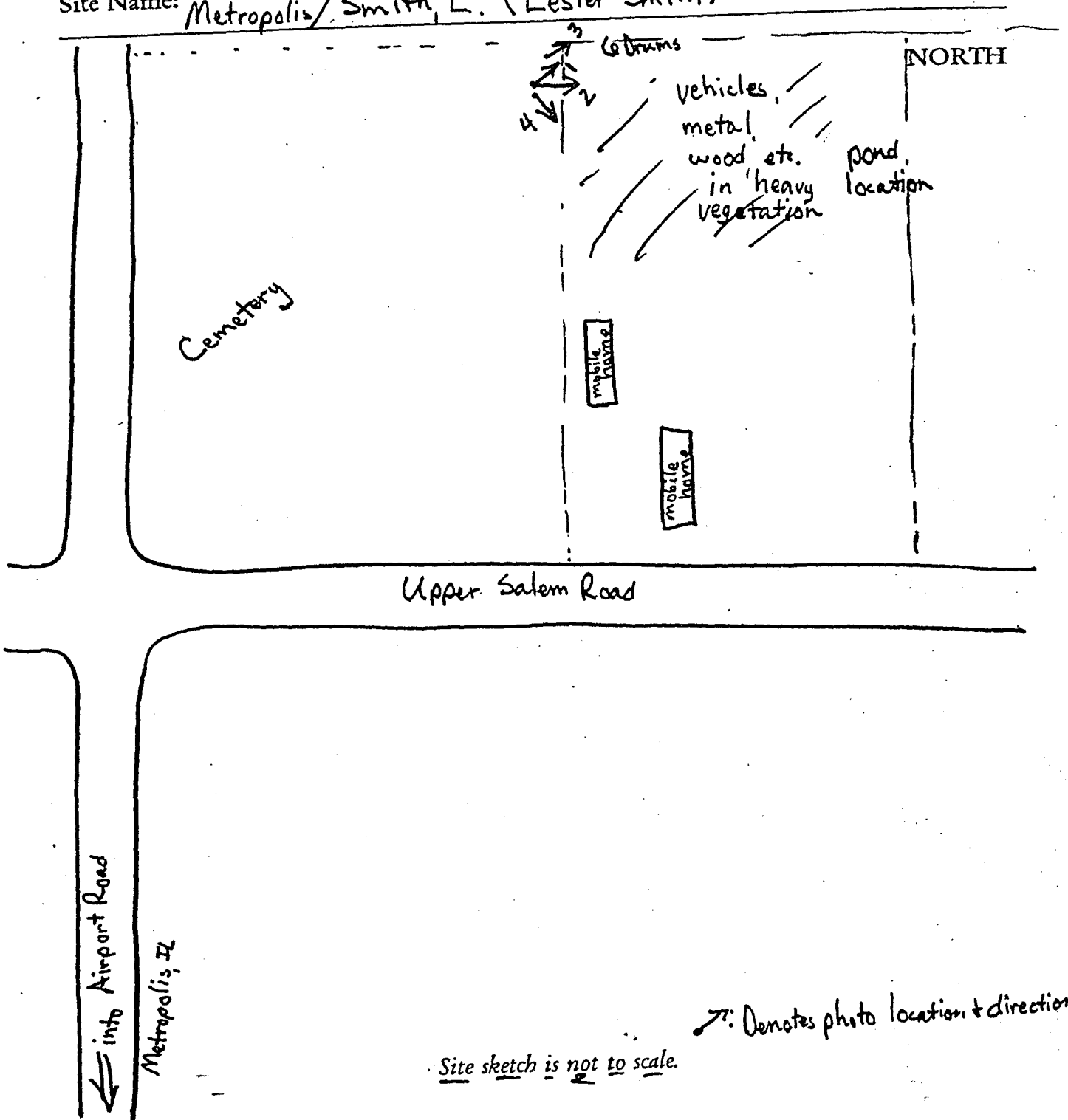
Inspection Date: May 21, 2004

Inspector: K. Johnson

LPC #: 1278015002

County: Massac

Site Name: Metropolis/Smith, L. (Lester Smith)



Site sketch is not to scale.

↗: Denotes photo location + direction

LPC # 1278015002 — Massac County
Metropolis/Smith, Lester
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 5/21/04
TIME: 1:01 PM
DIRECTION: Northeast
PHOTO by: K. Johnson
PHOTO FILE NAME:
1278015002~05212004-001
COMMENTS:



DATE: 5/21/04
TIME: 1:01 PM
DIRECTION: East
PHOTO by: K. Johnson
PHOTO FILE NAME:
1278015002~05212004-002
COMMENTS:



LPC # 1278015002 — Massac County
Metropolis/Smith, Lester
FOS File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: 5/21/04
TIME: 1:01 PM
DIRECTION: Northeast
PHOTO by: K. Johnson
PHOTO FILE NAME:
1278015002~05212004-003
COMMENTS:



DATE: 5/21/04
TIME: 1:01 PM
DIRECTION: Southeast
PHOTO by: K. Johnson
PHOTO FILE NAME:
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COMMENTS:



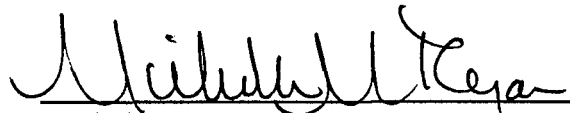
PROOF OF SERVICE

I hereby certify that I did on the 29th day of June 2004, 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: Lester Smith
3913 Upper Salem 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, Return Receipt Requested, 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

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