



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

**RECEIVED**  
CLERK'S OFFICE

JUL 18 2002

STATE OF ILLINOIS  
Pollution Control Board

(217) 782-9817

July 16, 2002

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

*AC 03-1*

Re: Illinois Environmental Protection Agency v. Tony Luttrell  
IEPA File No. 311-02-AC; ID No. 0258095001

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 to the Marion Regional Office to be delivered to Respondent(s) 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.

Very truly yours,

Michelle M. Ryan  
Assistant Counsel

Enclosures

GEORGE H. RYAN, GOVERNOR



## VIOLATIONS

Based upon direct observations made by Kent Johnson during the course of his May 30, 2002 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 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) (2000).

## CIVIL PENALTY

On May 2, 2002, the Pollution Control Board found that Respondent had violated the provisions listed in an Administrative Citation filed on March 25, 2002 (PCB No. AC 02-48). Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2000), for a second or subsequent offense Respondent is subject to a civil penalty of Three Thousand Dollars (\$3,000.00) for each of the violations identified above, for a total of 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 August 15, 2002, 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 (2000), 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) (2000), 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 (2000). 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: 7/16/02

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

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
TONY LUTTRELL, )  
 )  
Respondent. )

AC *03-1*  
(IEPA No. 311-02-AC)

FACILITY: Xenia/Luttrell, Tony

SITE CODE NO.: 0258115001

COUNTY: Clay

CIVIL PENALTY: \$3,000.00

DATE OF INSPECTION: May 30, 2002

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. )

TONY LUTTRELL )

Respondent. )

AC 03-1

IEPA DOCKET NO. 311-02-AC

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 30, 2002, between 5:00 P.M. and 5:12 P.M., Affiant conducted an inspection of a disposal site operated without an Agency permit, located in Clay County, Illinois, and known as the Luttrell site by the Illinois Environmental Protection Agency. Said site has assigned site code number 0258115001.

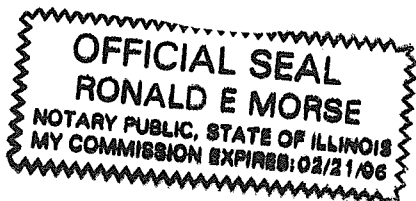
3. Affiant inspected said Luttrell site by an on-site inspection which included walking and photographing the site.

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 Luttrell site.

Kent A. Johnson

Subscribed and Sworn to before me  
this 11<sup>th</sup> day of June, 2002.

Ronald E. Morse  
Notary Public



INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: THIS ADMINISTRATIVE CITATION REFERS TO TWO SEPARATE STATE OF ILLINOIS AGENCIES. ONE IS THE ILLINOIS POLLUTION CONTROL BOARD LOCATED AT: STATE OF ILLINOIS CENTER, 100 WEST RANDOLPH STREET, SUITE 11-500, CHICAGO, ILLINOIS 60601. THE OTHER STATE AGENCY IS THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY LOCATED AT: 1021 NORTH GRAND AVENUE, EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276.

IF YOU ELECT TO CONTEST THE ENCLOSED ADMINISTRATIVE CITATION, YOU MUST FILE A PETITION FOR REVIEW WITHIN THIRTY-FIVE DAYS OF THE DATE THE ADMINISTRATIVE CITATION WAS SERVED UPON YOU. ANY SUCH PETITION FOR REVIEW MUST BE FILED WITH THE CLERK OF THE ILLINOIS POLLUTION CONTROL BOARD BY EITHER HAND-DELIVERING OR MAILING TO THE BOARD AT THE ADDRESS GIVEN ABOVE. A COPY OF THE PETITION FOR REVIEW SHOULD BE EITHER HAND-DELIVERED OR MAILED TO THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY AT THE ADDRESS GIVEN ABOVE AND SHOULD BE MARKED TO THE ATTENTION OF DIVISION OF LEGAL COUNSEL.



NC 03-1

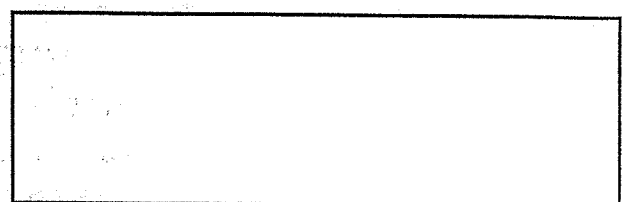
# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## Open Dump Inspection Checklist

County: Clay      LPC#: 0258115001      Region: 7 - Marion  
 Location/Site Name: Xenia/Luttrell  
 Date: 05/30/2002 Time: From 4:25 PM To 5:12 PM Previous Inspection Date: None by KAJ  
 Inspector(s): K. Johnson Weather: Partly cloudy, warm, slight breeze  
 No. of Photos Taken: # 7 Est. Amt. of Waste: 12 yds<sup>3</sup> Samples Taken: Yes #      No   
 Interviewed: Mrs. Luttrell (initially) Complaint #: C-02-130-M

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

Tony Luttrell  
 R.R. 2, Box 8  
 Xenia, IL 62899  
 618/678-2798



	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
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 checked="" type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input checked="" 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 checked="" type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>
	(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"/>
<b>35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G</b>			
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"/>
<b>OTHER REQUIREMENTS</b>			
14.		APPARENT VIOLATION OF: ( ) PCB; ( ) 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 # 0258115001 — Clay County  
Xenia/Luttrell  
Inspector Kent Johnson  
May 30, 2002  
FOS File

### Complaint Investigation Report Narrative

This unpermitted site was inspected on May 30, 2002 by this author representing the Agency. The investigation was conducted in response to a complaint alleging the improper disposal of waste from a house demolition in Flora, Illinois. Observations of the suspected demolition site were made from 3:05 to 4:42 P.M., while on-site observations were made from 5:00 to 5:12 P.M. Two photos were taken at the suspected demolition site {Photos 001-002}, and five photos were taken on-site {Photos 003-007}. Weather during the investigation ranged from rain in Flora at approximately 3:17 P.M. to mostly sunny at the time of the on-site observations. Air temperature was warm with a slight breeze throughout. Mrs. Luttrell was interviewed very briefly on this site prior to making on-site observations.

### General Remarks

This site is located southwest of Xenia, Illinois. It is the apparent residence of Mr. and Mrs. Tony Luttrell, R.R. 2, Box 8; Xenia, IL 62899. Using county road coordinates, the site is located at roughly 125N and 210E on the east side of the road. The current area of concern sits behind the house. The Luttrells' phone number is 618/678-2798.

### Inspection Findings

I arrived at the suspected demolition site in Flora, IL at approximately 3:05 P.M. At the site, which is located at the southwest corner of Locust and Maple Streets, I observed a pile of demolition debris, a trackhoe, and a green Ford pick-up (IL license # 3330 YU, B truck plate). I watched the site until a white International 10-wheel dump truck (IL license # 12 731, weight class D) arrived at the site at approximately 4:25 P.M. A man and a child got out of the dump truck, put what appeared to be a cooler in the pick-up, and left. I left the site shortly thereafter, taking a photo of the truck's license plate {Photo 001} and the debris {Photo 002} on my way out to Mr. Luttrell's residence.

I arrived at Mr. Luttrell's residence at approximately 5:00 P.M., noting smoke rising from behind the house. I drove into the driveway, and proceeded to knock on the front door; a woman who later identified herself as Mrs. Luttrell opened the door. I identified myself as well as the nature of the inspection, advising Mrs. Luttrell that I had observed smoke while approaching the site. Mrs. Luttrell said that her husband was just cleaning some stuff up. When I asked if she would

mind if I went back to take a look, she agreed, remaining in the house while I walked to the area of concern.

The area of concern was approximately 9' by 12', with smoldering waste protruding from what appeared to be very recently disturbed soil {Photos 003-004}. Waste observed in the area included demolition debris {Photos 005-007} and a bicycle rim {Photo 005}, some of which was in standing water {Photo 006}. At the back of the area, the walls of an excavated pit were estimated to be 3', yielding a total volume of 12 cubic yards for the area of concern (9' x 12' x 3', divided by 27 to convert to cubic yards).

After making physical observations of that area, I noted the presence of a dump truck (IL license plate # 50 603, H class). Just south of the area of concern, I noted a large pile of concrete. However, no evidence of any recent demolition was noted on the site. I left the site at approximately 5:12 P.M.

### Summary of Inspection Findings

At the time of this inspection, a number of apparent violations were observed. Waste was apparently burned and buried, so air pollution and open dumping violations will be cited. Since waste was observed in standing water, water pollution violations will be noted. Finally, given that no evidence of on-site demolition was noted, violations will be noted for receiving waste from off-site without meeting the required permitting standards.

Violations of Sections 9(a), 9(c), and 21(p)(3) are being cited because waste has apparently been open dumped resulting in open burning at this site, which would tend to cause air pollution in Illinois.

Violations of Sections 12(a), 12(d), and 21(p)(4) are being cited because waste has apparently been open dumped in standing or flowing water, which would tend to cause water pollution in Illinois.

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

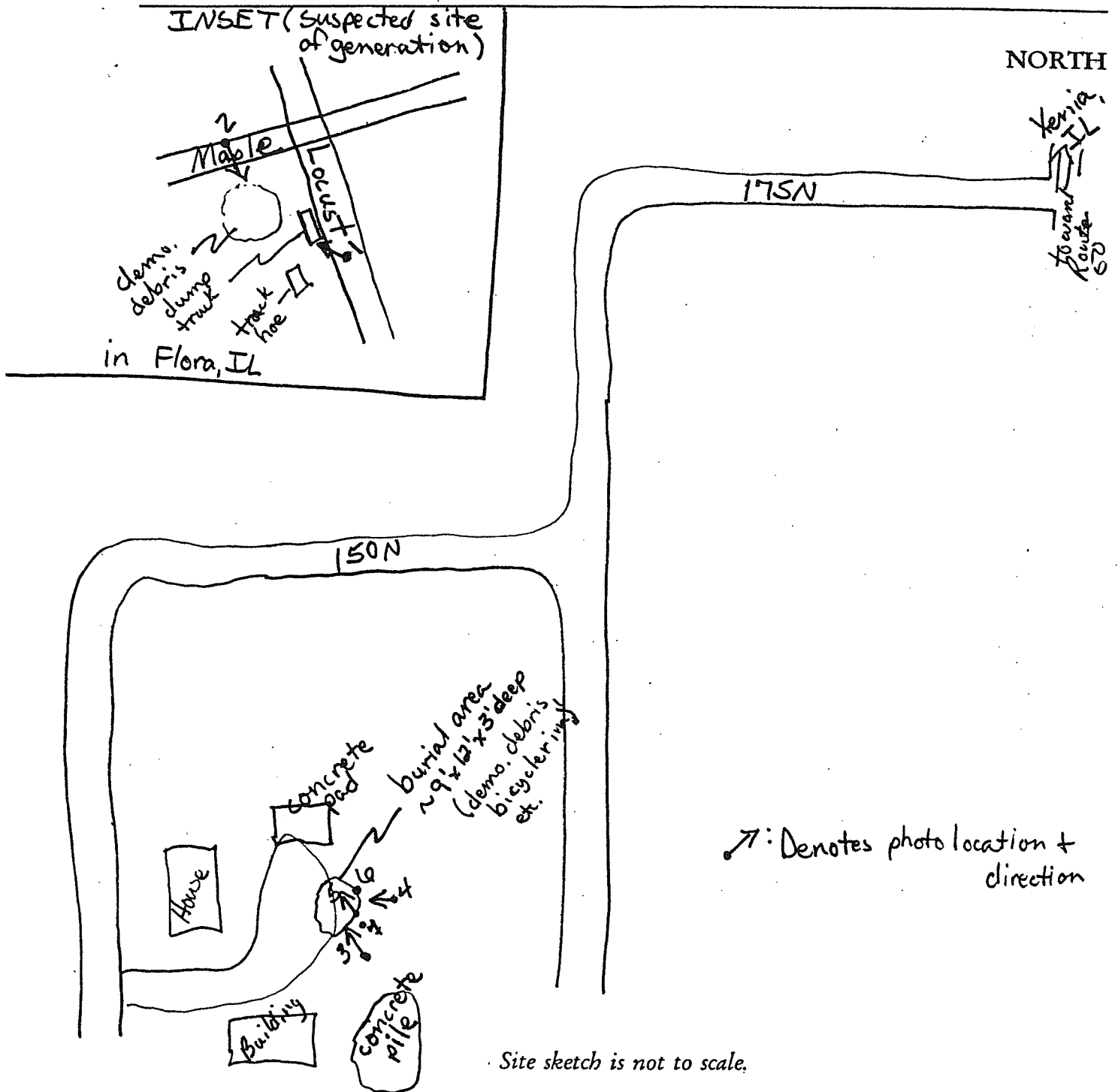
Violations of Sections 21(d)(1) and 812.101(a) are being cited because waste has apparently brought to this facility, which does not have a permit to receive waste, in addition to the fact that no application has apparently been submitted to that end.

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

# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## SITE SKETCH

Inspection Date: *May 30, 2002*  
Inspector: *K. Johnson*  
LPC #: *0258115001*  
County: *Clay*  
Site Name: *Xenia/Luttrell*



LPC # 0258115001 – Clay County  
Xenia/Luttrell  
FOS File

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** May 30, 2002  
**TIME:** 4:40 P.M.  
**DIRECTION:** Northwest  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-001  
**COMMENTS:**  
License plate of truck at  
suspected generation site  
(Locust & Maple, Flora)



**DATE:** May 30, 2002  
**TIME:** 4:41 P.M.  
**DIRECTION:** Southeast  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-002  
**COMMENTS:**  
Pile of demolition debris  
at suspected generation  
site (Locust & Maple,  
Flora)



LPC # 0258115001 – Clay County  
Xenia/Luttrell  
FOS File

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** May 30, 2002  
**TIME:** 5:05 P.M.  
**DIRECTION:** Northwest  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-003  
**COMMENTS:**



**DATE:** May 30, 2002  
**TIME:** 5:06 P.M.  
**DIRECTION:** West  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-004  
**COMMENTS:**





LPC # 0258115001 – Clay County  
Xenia/Luttrell  
FOS File

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** May 30, 2002  
**TIME:** 5:06 P.M.  
**DIRECTION:** Northwest  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-005  
**COMMENTS:**



**DATE:** May 30, 2002  
**TIME:** 5:07 P.M.  
**DIRECTION:** Down  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-006  
**COMMENTS:**





LPC # 0258115001 – Clay County  
Xenia/Luttrell  
FOS File

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** May 30, 2002  
**TIME:** 5:10 P.M.  
**DIRECTION:** Down  
**PHOTO by:** K. Johnson  
**PHOTO FILE NAME:**  
0258115001~05302002-007  
**COMMENTS:**



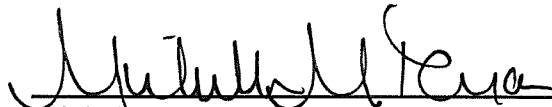
**PROOF OF SERVICE**

I hereby certify that I did on the 16<sup>th</sup> day of July, 2002, send a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST to be hand delivered

To: Tony Luttrell  
R.R. 2, Box 8  
Xenia, Illinois 62899

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