



ILLINOIS ENVIRONMENTAL PROTECTION

1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 • (217) 782-2829
James R. Thompson Center, 100 West Randolph, Suite 11-300, Chicago, IL 60601 • (312) 814-6626

PAT QUINN, GOVERNOR

John J. Kim, ~~State Director~~
Pollution Control Board

RECEIVED
CLERK'S OFFICE

MAR 26 2012

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

ORIGINAL
RETURN TO CLERK'S OFFICE

AC12-34

March 21, 2012

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

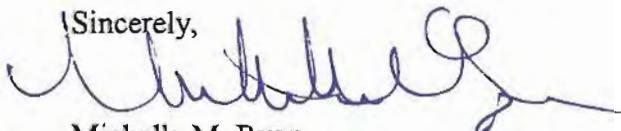
Re: Illinois Environmental Protection Agency v. David N. Lutz
IEPA File No.61-12-AC: 1738175002—Shelby County

Dear Mr. Therriault:

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

of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 3-21-12, Illinois EPA sent this Administrative Citation via Certified Mail No. 7009 2820 0001 7496 0513.

VIOLATIONS

Based upon direct observations made by Jennifer O'Hearn during the course of her January 30, 2012 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) (2010).
- (2) That Respondent 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)(2010).
- (3) 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) (2010).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 April 15, 2012, 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 (2010), 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.

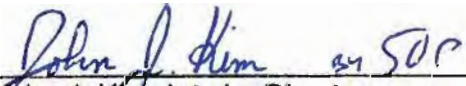
Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2010), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board 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 (2010). 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.



John J. Kim, Interim Director
Illinois Environmental Protection Agency

Date: 3/19/2012

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

RECEIVED
CLERK'S OFFICE

MAR 26 2012

STATE OF ILLINOIS
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
))
Complainant,))
))
v.))
))
DAVID N. LUTZ,))
))
))
))
Respondent.))

AC 12-34
(IEPA No. 61-12-AC)

FACILITY: Shelbyville/Lutz, David

SITE CODE NO.: 1738175002

COUNTY: Shelby

CIVIL PENALTY: \$4,500.00

DATE OF INSPECTION: January 30, 2012

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.

RECEIVED
CLERK'S OFFICE

MAR 26 2012

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

STATE OF ILLINOIS
Pollution Control Board

AFFIDAVIT

IN THE MATTER OF:)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
Complainant,)
)
David Lutz,)
Respondent,)

IEPA DOCKET NO.

AC12-34

Affiant, Jennifer O'Hearn, 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 January 30, 2012, between 11:57 A.M. and 12:13 P.M., Affiant conducted an inspection of the site in Shelby County, Illinois, known as the David Lutz, Illinois Environmental Protection Agency Site No. 1738175002.
3. Affiant inspected said David Lutz site by an on-site inspection, which included walking the site.
4. As a result of the activities 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 the David Lutz site, located at South Eighth Street, located about one hundred and sixty five yards southwest of the intersection of 1200 N CR (West South Eighth Street) and South Heinlein Drive, in Rose Township south of Shelbyville, in Shelby County, Illinois site.

Jennifer O'Hearn
Jennifer O'Hearn

Subscribed and Sworn to before me
this 17th day of February,
2012.

Beverly Marie Carver
Notary Public

OFFICIAL SEAL
Beverly Marie Carver
NOTARY PUBLIC, STATE OF ILLINOIS
My Commission Expires 3-29-15

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Shelby LPC#: 1738175002 Region: 4 - Champaign
 Location/Site Name: Shelbyville/Lutz, David
 Date: 01/30/2012 Time: From 11:57AM To 12:13PM Previous Inspection Date: 08/31/2011
 Inspector(s): Jennifer O'Hearn Weather: Mostly sunny, ~50 degrees, winds out of south at 15-20 mph
 No. of Photos Taken: # 13 Est. Amt. of Waste: 55 yds³ Samples Taken: Yes # _____ No
 (-15)
 Interviewed: David Lutz Complaint #: C12-023-CH
 Latitude: 39.39638 Longitude: -88.81831 Collection Point Description: Dump Location - +/-15.1 ft.
 (Example: Lat: 41.26493 Long.: -89.38294) Collection Method: -

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

David N. Lutz, owner
 P.O. Box 482
 Shelbyville, IL 62565
 217/774-2022(w)

RECEIVED
CLERK'S OFFICE
MAR 26 2012
STATE OF ILLINOIS
Pollution Control Board

	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 AND REGULATIONS	<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 # 1738175002

Inspection Date: 01/30/2012

	(7)	Deposition of: (i) General Construction or Demolition Debris as defined in Section 3.160(a); or (ii) Clean Construction or Demolition Debris as defined in Section 3.160(b)	<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"/>
10.	55(k)	NO PERSON SHALL:	
	(1)	Cause or Allow Water to Accumulate in Used or Waste Tires	<input type="checkbox"/>
	(4)	Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
11.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input checked="" type="checkbox"/>
12.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
13.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
14.	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"/>
15.	815.201	FAILURE TO FILE AN INITIAL FACILITY REPORT WITH THE AGENCY TO PROVIDE INFORMATION CONCERNING LOCATION AND DISPOSAL PRACTICES OF THE FACILITY.	<input type="checkbox"/>
OTHER REQUIREMENTS			
16.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
17.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

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 and subsection (k) of Section 55 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 ♦ Field Operations Section ♦ Champaign

LPC#1738175002—Shelby County
Shelbyville/Lutz, David
FOS File
Inspector: Jennifer O’Hearn
January 30, 2012 Inspection

Open Dump Re-Inspection Narrative

Site History:

The original inspection of the site was conducted on May 18, 2006 by Deanna Carlock. The site exhibited evidence of open dumping of lumber, furniture, household waste, etc. and evidence of open burning of scrap metal, ashes, etc. The ACWN was sent on July 27, 2006 to David Lutz. David Lutz was identified as the property owner during the inspection in an interview with Mr. Lutz’s girlfriend, Lois James. A re-inspection was conducted on August 31, 2011 by Jennifer O’Hearn as a result of a complaint alleging hauling in demolition debris including plastic drain tile pipe, concrete, bricks, shingles, dimensional lumber, etc. to fill a low area at the property. Evidence of open dumping of dimensional lumber, a microwave oven, painted plywood, furniture, plastic, metal, etc. was observed. Evidence of open dumping and burning of a metal bike frame including a charred tire, charred dimensional lumber, a charred bedsprings frame along with metal mattress springs and other charred material and ash, etc. was observed.

Shelby County Tax Assessor’s:

According to the Shelby County Tax Assessor’s office the 2.5 acre piece of land is listed under Parcel # 12-13-00-300-007, is located in Section 13, Township 11 N, Range 3 E, of Rose Township and is located in part of the southeast quarter of the northeast quarter of the southwest quarter. The most recent document on record for the property is an Executor’s Deed to Lutz dated 02/1998 and recorded on Book and Page Number 98-845.

Note: The fill area is not in any of the setback zones on record at Champaign Regional Office for public water setback zones for the town of Shelbyville.

General Comments:

Jennifer O’Hearn of DLPC/FOS Champaign Regional Office conducted a routine open dump inspection of the above referenced facility on January 30, 2012. This inspection was conducted to determine the regulatory status and evaluate compliance with the Environmental Protection Act (Act) and Title 35 Illinois Administrative Code, Subtitle G: Land Pollution (Regulations). The weather was mostly sunny and 50 degrees, with a 15-20 mph wind out of the south. Thirteen photos and no samples were taken. Mr. David

Lutz's teenage son was present to represent the property owner. The site is located a little less than a quarter mile southwest of the intersection of Heinlein Drive and 1200 N CR, near the southwest edge of Shelbyville, in Shelby County, on the south side of the street. The property is a rural, residential property. The waste is located west and south of the drive into the property.

I arrived at about 11:57 A.M., after parking along the drive into the property. I then walked up to the front door and knocked. A teenage boy answered and I asked if the property was still owned by David Lutz. He said yes. As the boy appeared to have just woken up, I apologized for waking him and explained that I was at the site to see that progress in cleaning up waste material at the site had been made. He said that his mom and dad weren't available and said to come back later to conduct my inspection. I said that they do not need to be present for the inspection. He shook his head and said that he was going back to bed and promptly closed the front door. I walked down the sidewalk to the southwest around twenty yards to the drive where my vehicle was parked where I could see that the soil piles still remained at the site and glints of sun were reflecting off of waste on the ground and on piles behind the soil piles (photo 13). I then walked about forty-five yards to the southeast and viewed dimensional lumber, cardboard, plastic bags, strand board, metal siding, plastic pipe, etc. on the ground, these wastes all new at the site since the previous inspection (photos 1 & 2). Next I walked to the northwest about twenty yards for a view of dimensional lumber, landscaping timbers, metal rebar, pieces of concrete, etc. on the ground as observed in the previous inspection (photo 3). Next I walked to the southeast about forty yards for a view of mattress springs, dimensional lumber, pieces of concrete, etc. on the ground along the fill edge and pieces of dimensional lumber partially buried (photo 4). The mattress springs, dimensional lumber and concrete past the mattress springs were observed in the previous inspection. The concrete in front of the mattress springs is new to the site. I turned slightly to the southwest and observed black plastic partially buried and along a water area, plywood and dimensional lumber along the water area, a piece of drywall, several pieces of concrete and concrete around pipe, etc. also in the area (photo 5). These objects all were new to the site since the last inspection. I turned to the northwest and viewed mattress springs, dimensional lumber, concrete, etc. on the ground along the fill edge as in photo # 4. I also observed pieces of dimensional lumber and carpet with a burn area just behind. Next to the pieces of dimensional lumber and carpet was a pile of dimensional lumber, fiberboard, metal siding, plastic sheeting, etc. The material further from the fill edge, including pieces of dimensional lumber and carpet and the pile of dimensional lumber, fiberboard, metal siding, plastic sheeting, etc. was all new material not observed at the site in the previous inspection (photos 6 & 7). I then walked fifteen to twenty yards to the west and observed siding, paneling, etc. partially buried (photo 8). Next I walked to the northwest about fifty yards and looked at dimensional lumber and landscaping timbers in piles of dirt (photo 9). Then I walked to the northeast several yards and observed dimensional lumber and concrete in with a dirt pile and dimensional lumber also on the ground. At the rear of the photo, rebar is visible as seen in photo #3 (photo 10). No waste appears to have been removed from this area since the last inspection. Next I stepped to the northeast about twenty yards and saw ash, charred material, rusty metal cans, rusty metal spray cans, a light bulb, etc. (photo 11). The burn area was new since the previous

inspection. I then stepped to the east about five yards for a close-up view of the painted and unpainted dimensional lumber, plastic garbage bag, carpet, plywood, etc. some of which were visible in photo 6 and 7 (photo 12). Finally, I walked to the northeast about thirty-five yards for a view of the dump area from the intersection of the end of the sidewalk leading to the front door and the driveway (photo 13). I entered my vehicle and left the site at 12:13 P.M.

In estimation about fifteen cubic yards of new waste has come into the site as detailed in the inspection narrative. An estimated ten cubic yards of waste previously observed was no longer observed at the site. The waste no longer observed included a bicycle frame, a microwave oven, some painted plywood and furniture, metal brackets, and a corrugated metal pipe.

Interview-David Lutz, property owner

I phoned Mr. David Lutz on his cell phone at 217/690-7260 on February 9, 2012 and he answered. After I verified his identity, I explained that I was calling from the Illinois Environmental Protection Agency and that I had conducted an inspection at his house south of Shelbyville to see if the waste had been removed from the property. He said that he hasn't been able to get in there and do anything because it has been too muddy. He said that he only has a little dozer and did not want it to get stuck. He said that his friend has a big dozer and he needs to use it to get done what needs to get done at the site. I said that some stuff that I had seen in the earlier inspection was no longer visible. He said that he was getting ready to take it out. He said that he's not a teenager anymore and that this weather is hard on him. I asked what was being taken out, that there were some things that I did not observe at the site any more. He did not specifically say what. I said that the bicycle, microwave oven, painted plywood, furniture and some metal brackets were not visible any more. He said that they were taken to that place around Shelbyville. I said during the last inspection interview he mentioned Shelby Disposal. He said that's the place I took the stuff. I said that it also looked like some new dimensional lumber and carpet, etc. had been placed at the site now. He said that he has done some remodeling and is going to take that material out. I said that he should keep his receipts. He said that he will keep them so he can also use them on his taxes. He said that he had a customer and he needed to go. I said that he might need to call me back at this phone number to discuss further. I said that my boss may want to fine him since it is still not cleaned up. He said that he plans to clean it up. I said okay. He said have a nice day.

Apparent violations observed during this inspection:

Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 1/2, 1001 et. seq.) {hereinafter called the "Act"}

- #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 of refuse was observed during the inspection.**

- #3 Pursuant to Section 21(a) of the Act, 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 Act, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit

A violation of Section 21(d)(1) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation without a permit was observed during the inspection.**

- #5 Pursuant to 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 Pollution Control Board.

A violation of Section 21(d)(2) is alleged for the following reason: **evidence of the operation of a waste-storage, waste-treatment, or waste-disposal operation in violation of regulations adopted by the Board was observed during the inspection.**

- #6 Pursuant to Section 21(e) of the Act, 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 stored and/or disposed of at this site which does not meet the requirements of the Act and of regulations and standards thereunder.**

- #7 Pursuant to Section 21(p)(1) of the Act, no one shall cause or allow the open dumping of any waste in a manner which results in litter.

A violation of Section 21(p)(1) is alleged for the following reason: **waste was open dumped at this site resulting 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 Act, no one shall cause or allow the open dumping of any waste in a manner, which results in deposition of clean or general construction or demolition debris at the site.

A violation of Section 21(p)(7) is alleged for the following reason: **waste was open dumped at this site resulting in deposition of clean or general construction or demolition debris at the site.**

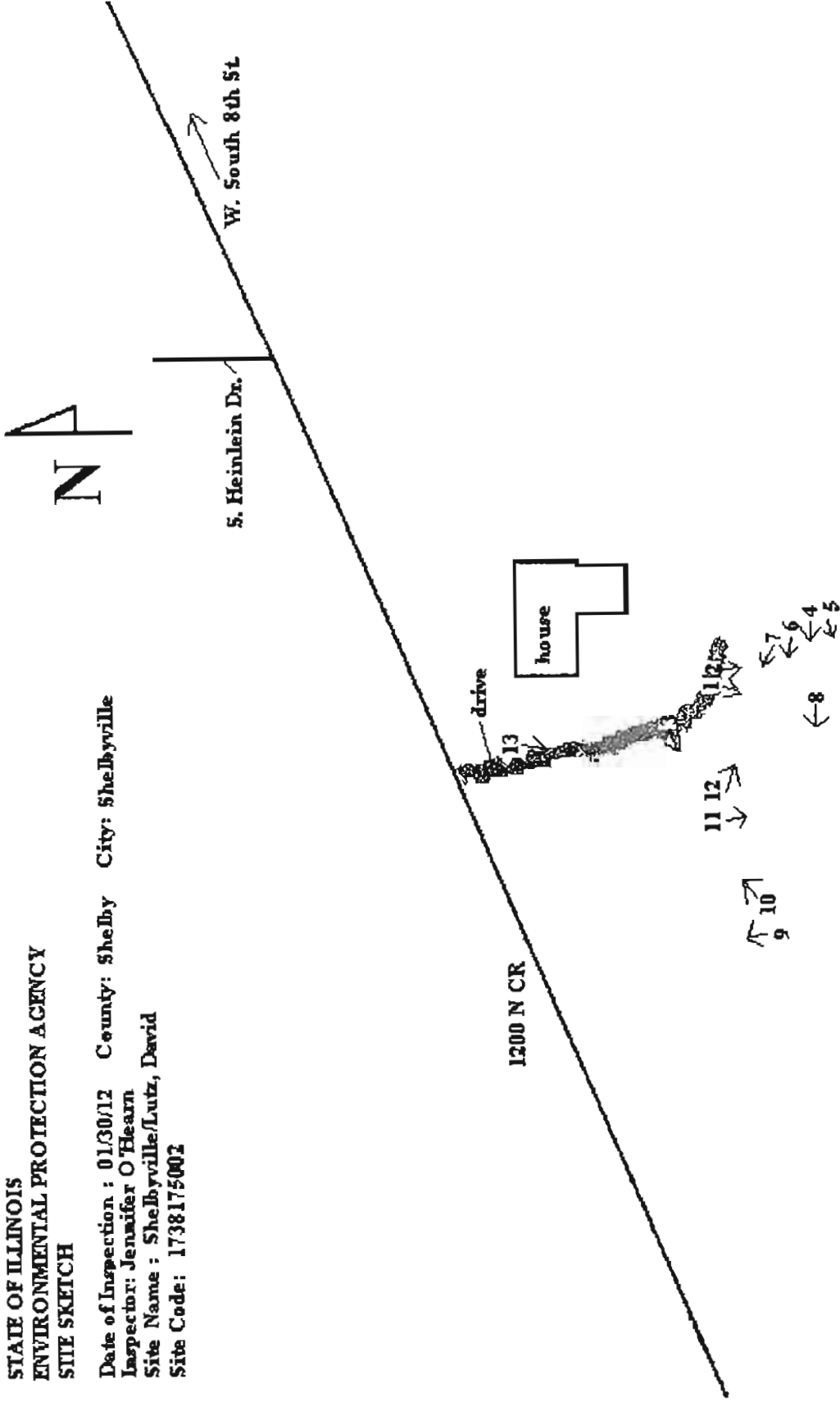
35 Illinois Administrative Code. (Title 35: Environmental Protection, Subtitle G: Land Pollution, Chapter I: Pollution Control Board) [Regulations]

- #10 Pursuant to Section 812.101(a) of the Regulations, All persons, except those specifically exempted by Section 21(d) of the Act, shall submit to the Agency an application for a permit to develop and operate a landfill.

A violation of Section 812.101(a) is alleged for the following reason: **this waste management site has not submitted an application to the Agency for a permit to develop and operate a landfill.**

STATE OF ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY
SITE SKETCH

Date of Inspection : 01/30/12 County: Shelby City: Shelbyville
Inspector: Jennifer O'Hearn
Site Name : Shelbyville/Lutz, David
Site Code: 1738175002



Map Not to Scale
Arrows indicate direction
and location of Photos



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:02PM
Direction: Southwest
Photo by: Jen
O'Hearn
Exposure #: 001
Comments: View of
dimensional
lumber, cardboard,
plastic bags,
strand board, etc.
on the ground.



Date:01-30-2012
Time: 12:02PM
Direction: Southeast
Photo by: Jen
O'Hearn
Exposure #: 002
Comments: View of
metal siding,
plastic bags,
dimensional
lumber, cardboard,
plastic pipe, etc.
on ground.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:02PM
Direction: Southwest
Photo by: Jen O'Hearn
Exposure #: 003
Comments: View of dimensional lumber, landscaping timbers, metal rebar, concrete, etc. on ground.



Date:01-30-2012
Time: 12:03PM
Direction: West
Photo by: Jen O'Hearn
Exposure #: 004
Comments: View of mattress springs, dimensional lumber, concrete, etc. on ground along fill edge and pieces of dimensional lumber partially buried.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:03PM
Direction: Southwest
Photo by: Jen O'Hearn
Exposure #: 005
Comments: View of black plastic partially buried and along water area, plywood and dimensional lumber along water area, a piece of drywall, several pieces of concrete and concrete around pipe, etc.



Date:01-30-2012
Time: 12:04PM
Direction: Northwest
Photo by: Jen O'Hearn
Exposure #: 006
Comments: View of mattress springs, dimensional lumber, concrete, etc. on ground along fill edge as in photo # 4 and pieces of dimensional lumber and carpet. Burn area just behind dimensional lumber and carpet.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:04PM
Direction: Northwest
Photo by: Jen
O'Hearn
Exposure #: 007
Comments: View of
pieces of
dimensional
lumber and carpet
as in photo #6 and
pile of dimensional
lumber, fiberboard,
metal siding,
plastic sheeting,
etc.



Date:01-30-2012
Time: 12:04PM
Direction: West
Photo by: Jen
O'Hearn
Exposure #: 008
Comments: View of
siding, paneling,
etc. partially
buried.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:05PM
Direction: Northwest
Photo by: Jen
O'Hearn
Exposure #: 009
Comments: View of
dimensional
lumber and
landscaping
timbers in piles of
dirt.



Date:01-30-2012
Time: 12:06PM
Direction: Northeast
Photo by: Jen
O'Hearn
Exposure #: 010
Comments: View of
dimensional
lumber and
concrete in with
dirt pile and
dimensional
lumber on ground.
At rear of photo
rebar visible as
seen in photo #3.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:06PM
Direction: Southeast
Photo by: Jen O'Hearn
Exposure #: 011
Comments: View of ash, charred material, rusty metal cans, rusty metal spray cans, a light bulb, etc.



Date:01-30-2012
Time: 12:07PM
Direction: Southeast
Photo by: Jen O'Hearn
Exposure #: 012
Comments: View of painted and unpainted dimensional lumber, plastic garbage bag, carpet, plywood, some of which were visible in photo 6 and 7.



DIGITAL PHOTOGRAPHS File Names: 1738175002~01302012-[Exp. #].jpg



Date:01-30-2012
Time: 12:08PM
Direction: Southwest
Photo by: Jen
O'Hearn
Exposure #: 013
Comments: View of
dump area from
intersection of end
of sidewalk
leading to front
door and driveway.

STATE OF ILLINOIS)
)
COUNTY OF SHELBY)
)
IN THE CIRCUIT COURT FOR)
THE 4TH JUDICIAL CIRCUIT)
SHELBY COUNTY, ILLINOIS.)

IN THE MATTER OF THE)
ESTATE OF IRA E. JAMES,)
DECEASED.)

NO. 97-P-77)

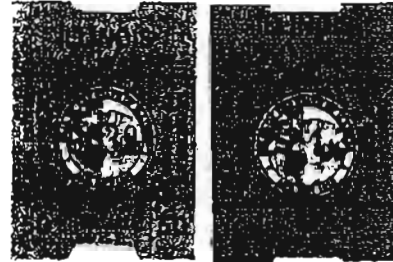
SHELBY COUNTY, ILLINOIS
NO. 98. 845
FILED Feb 26, 1998
AT 1:47 PM
Jean Richards RECORDER

) \$ 55⁰⁰ Paid for State Real Estate Transfer Tax
) \$ 27⁵⁰ Paid for County Real Estate Transfer Tax
)

) Date 2.26.98 *JV*

EXECUTOR'S DEED

THIS INDENTURE made this 24th day of February, A. D. 1998 between WALDO WIANDT, Independent Executor, of the Estate of IRA E. JAMES, deceased, Party of the First Part, and DAVID N. LUTZ, of R. R. #1, Box 247, Shumway, Illinois, Party of the Second Part.



WITNESSETH, whereas the Last Will and Testament of IRA E. JAMES, deceased, was duly admitted to Probate by the Circuit Court of the Fourth Judicial Circuit, Shelby County, Illinois, docket no. 97-P-77, on September 16, 1997 and whereas, said Will authorized the Executor to sell at Public or Private sale any or all real estate owned by decedent, without prior Court approval, and;

WHEREAS, the Party of the First Part sold the real estate to the Party of the Second Part for the sum of FIFTY-FIVE THOUSAND (\$55,000.00) DOLLARS, and NOW THEREFORE, this indenture witnesseth that the Party of the First Part, in consideration of the premises and the sum of FIFTY-FIVE THOUSAND

(\$55,000.00) DOLLARS, to him in hand paid by the Party of the Second Part, receipt whereof is hereby acknowledged, has granted, sold and conveyed and by these presents does grant, sell and convey unto the said Party of the Second Part, DAVID N. LUTZ, his heirs and assigns, forever, all the following described real estate and all interest of the decedent therein, situated in the County of Shelby and State of Illinois, as follows:

Beginning at an iron pipe set 1451.82 feet North 1°-30' East from the Southwest Corner of the East Half (E½) of the East Half (E½) of the Southwest Quarter (SW¼) of Section Thirteen (13), Township Eleven (11) North, Range Three (3) East of the Third Principal Meridian, Shelby County, Illinois, thence North 45°-45' East for 250.30 feet to an iron pipe, thence northerly 539.30 feet to an iron pipe on the South line of the Vandalia Road which is 246.60 feet northeasterly along the South line of the Vandalia Road from the West line of the East Half (E½) of the East Half (E½) of the Southwest Quarter (SW¼) of the aforementioned Section Thirteen (13), thence southwesterly along the South line of the Vandalia Road for 246.60 feet to an iron pipe on the West line of the said East Half (E½) of the East Half (E½) of the Southwest Quarter (SW¼) of the said Section Thirteen (13), thence South 1°-30' West along the said West line for 568.18 feet to the point of beginning, containing 2.45 acres, more or less.

WITNESS this 24th day of February A. D. 1998.

Waldo Wiandt
Executor of Said Estate

STATE OF ILLINOIS)
)
COUNTY OF SHELBY)

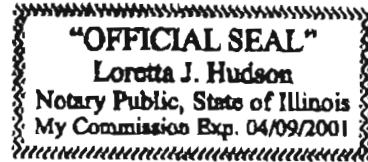
I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that WALDO WIANDT, Executor of the Will of IRA E. JAMES, deceased, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered said instrument as his free and voluntary act for the uses and purposes therein set forth.

Given under my hand and notarial seal this 24th day of
February, A. D. 1998.

Loretta J. Hudson
NOTARY PUBLIC

MAIL TAX STATEMENTS TO:
David N. Lutz
R. R. #3, Box 5
Shelbyville, IL 62565

THIS INSTRUMENT PREPARED BY:
TURNER & TURNER, Attys. at Law
225 E. South First St.
Shelbyville, IL 62565



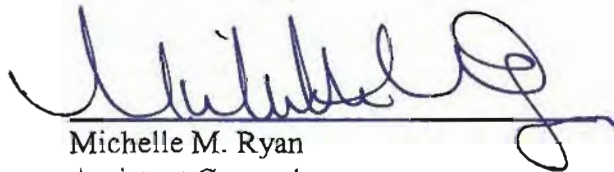
PROOF OF SERVICE

I hereby certify that I did on the 21st day of March 2012, 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: David N. Lutz
P.O. Box 482
Shelbyville, 62468

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: John Therriault, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601



Michelle M. Ryan
Assistant 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

MAR 26 2012

STATE OF ILLINOIS
Pollution Control Board

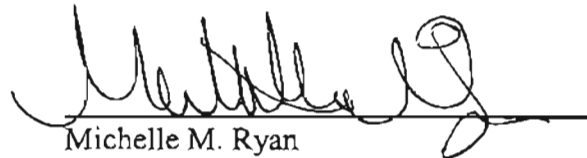
PROOF OF SERVICE

I hereby certify that I did on the 21st day of March 2012, 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: David N. Lutz
P.O. Box 482
Shelbyville, IL 62468

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: John Therriault, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601



Michelle M. Ryan
Assistant Counsel

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER