

**RECEIVED**  
CLERK'S OFFICE

MAR 20 2007

STATE OF ILLINOIS  
Pollution Control Board

AC07-48

## 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 James R. Thompson 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 61794-9276.

If you elect to contest the enclosed Administrative Citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) 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: DIVISION OF LEGAL COUNSEL**.

Any person other than individuals **MUST** appear through an attorney-at-law licensed and registered to practice law. Individuals may appear on their own behalf, or through an attorney. 35 Ill. Adm. Code 101.400(a).

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
) )  
Complainant, )  
) )  
v. )  
) )  
BEN and DESTINY WYANT, )  
) )  
Respondents. )

AC 07-48  
(IEPA No.54-07-AC)

NOTICE OF FILING

To: Ben & Destiny Wyant  
111 W. 5<sup>th</sup> Street  
West Frankfort, IL 62896

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: March 14, 2007



## VIOLATIONS

Based upon direct observations made by Sheila Williams during the course of her January 18, 2007 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2004).
  
- (2) That Respondents 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) (2004).

## CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2004), Respondents are subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of Three Thousand Dollars (\$3,000.00). If Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than April 30, 2007, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2004), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing,

Respondents 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) (2004), if Respondents fail to petition or elect 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2004). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

Douglas P. Scott  
Douglas P. Scott, Director  
Illinois Environmental Protection Agency

Date: 3-14-07

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**  
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MAR 20 2007

STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
Complainant, )  
v. )  
BEN & DESTINY WYANT, )  
Respondents. )

AC **07-48**  
(IEPA No. 54-07-AC)

FACILITY: Thompsonville/Noe-Wyant      SITE CODE NO.: 1998535005  
COUNTY: Williamson      CIVIL PENALTY: \$3,000.00  
DATE OF INSPECTION: January 18, 2007

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. ) IEPA DOCKET NO.  
 )  
 )  
 )  
 Respondent. )

AFFIDAVIT

Affiant, Sheila Williams, being first duly sworn, voluntarily deposes and states as follows:

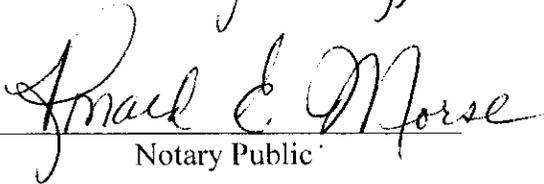
1. Affiant is a field inspector employed by the Land Pollution Control Division of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On January 18, 2007, between 11:40 a.m. and 11:55 a.m., Affiant conducted an inspection of a disposal site operated by Ben & Destiny Wyant, located in Williamson County, Illinois, and known as Thompsonville/Noe-Wyant by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1998535005 by the Agency.
3. Affiant inspected said Thompsonville/Noe-Wyant 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 Thompsonville/Noe-Wyant.

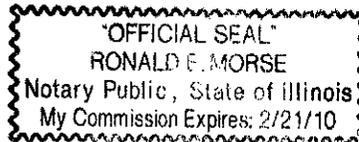


Subscribed and Sworn to before me

this 25<sup>th</sup> day of January, 2007

  
Notary Public

SRW:jkb/28711/01-24-07



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

County: Williamson                      LPC#: 1998535005                      Region: 7 - Marion  
 Location/Site Name: Thompsonville/Noe - Wyant  
 Date: 1/18/2007    Time: From 11:40 AM To 11:55 AM    Previous Inspection Date: 8/24/2006  
 Inspector(s): S. Williams & R. Mileur                      Weather: sunny, ~35° F.  
 No. of Photos Taken: # 5    Est. Amt. of Waste: 308 yds<sup>3</sup>    Samples Taken: Yes # \_\_\_\_\_ No   
 Interviewed: \_\_\_\_\_                      Complaint #: 07-036  
 Latitude: 37.84196    Longitude: -88.78443    Collection Point Description: Main Gate  
 (Example: Lat.: 41.26493                      Long.: -89.38294)                      Collection Method: GPS

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

Paul A. & Norma A. Noe  
1644 Moody Court  
Peoria, IL 61604

Ben & Destiny Wyant  
111 W. 5<sup>th</sup> Street  
West Frankfort, IL 62896

	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"/>

LPC # 1998535005

Inspection Date: 1/18/2007

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" type="checkbox"/>
9.	55(a)	<b>NO PERSON SHALL:</b>	
	(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)	<b>FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL</b>	<input checked="" type="checkbox"/>
11.	722.111	<b>HAZARDOUS WASTE DETERMINATION</b>	<input type="checkbox"/>
12.	808.121	<b>SPECIAL WASTE DETERMINATION</b>	<input type="checkbox"/>
13.	809.302(a)	<b>ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST</b>	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
14.		<b>APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:</b>	<input type="checkbox"/>
15.	<b>OTHER:</b>		<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

- [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- 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.
- 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.

# **NARRATIVE INSPECTION REPORT**

Date: January 18, 2007 Inspectors: Sheila Williams & Rob Mileur

Site Code: 1998535005 County: Williamson

Site Name: Thompsonville/Noe - Wyant Time: 11:43 A.M. – 11:55 A.M.

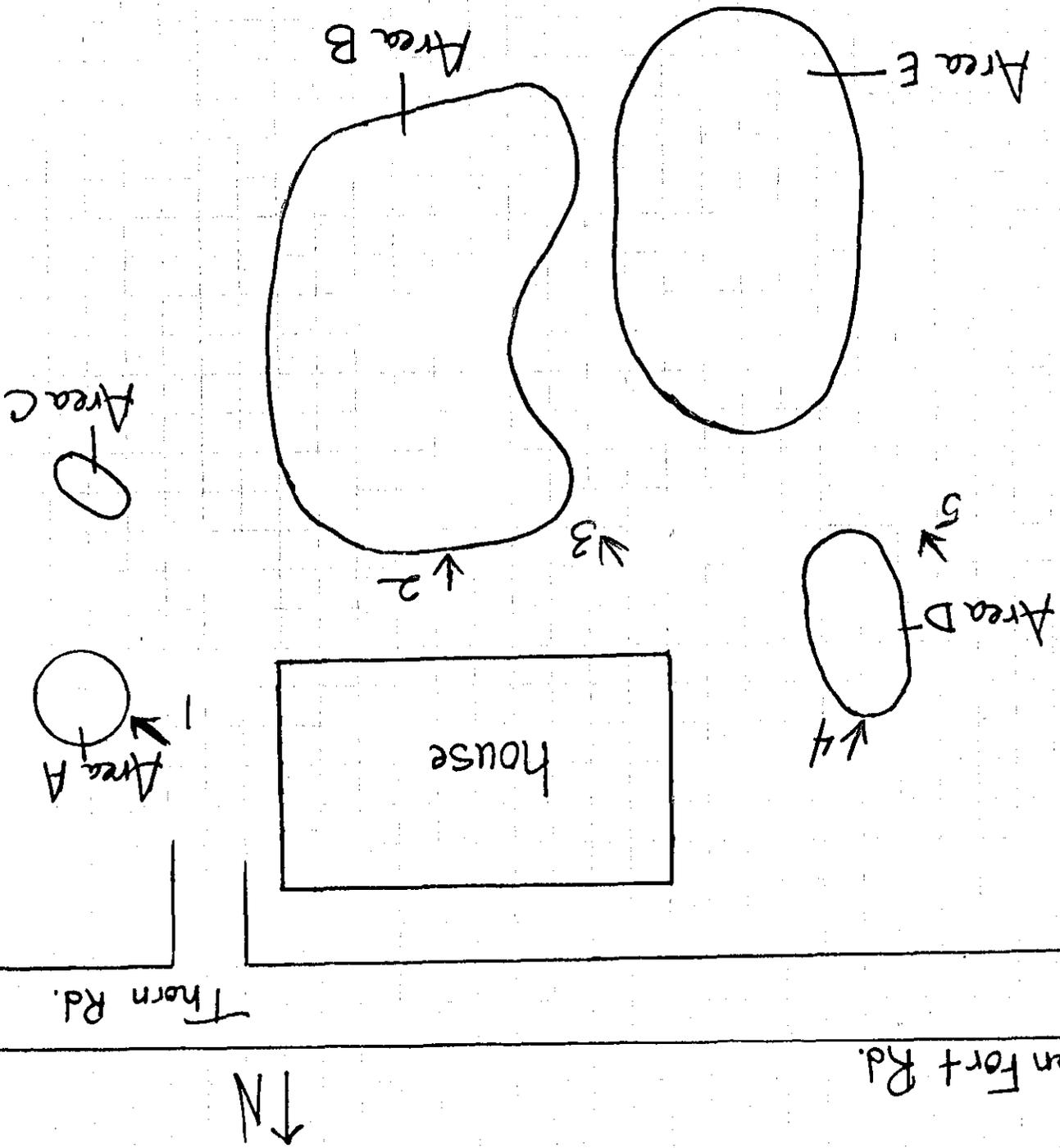
## **GENERAL REMARKS**

On January 18, 2007 a follow-up inspection of the Thompsonville/Noe – Wyant site was conducted. The purpose of the inspection was to determine the compliance status of the site. The initial inspection was conducted on August 24, 2006 at which time apparent violations included, but were not limited to, open dumping & open burning.

Other than the diminished vegetation, it was apparent conditions at the site had not changed. It did not appear as though any new waste had been added nor any of the previously observed waste removed. The same five areas of waste were present, totaling an estimated 308 cubic yards. As before, the waste included, but was not limited to, concrete, demolition wood, metal, two mattresses, roofing debris, a tire, two plastic buckets & general refuse.

Following the initial inspection, an Administrative Citation Warning Notice was sent to Paul & Norma Noe of Peoria, IL because county records indicated they receive the tax bill for this piece of property. Following this, Norma Noe provided information explaining that in February 2004 the property was sold contract for deed to Ben & Destiny Wyant. Mrs. Noe sent the regional office copies of a February 6, 2004 cashier's check made out to Norma Noe that has Jamie Wyant as the remitter (in her October 3, 2006 letter, Mrs. Noe wrote that Jamie Wyant is Ben Wyant's mother); a March 1, 2004 check also made out to Norma Noe from the account of B & J Construction of West Frankfort, IL & signed by Ben Wyant; and copies of a notarized contract for deed that indicate Ben & Destiny Wyant purchased property from Paul & Norma Noe. The legal description of the property in the contract for deed appears to be the same as the site.

Thompsonville/NOE  
#1998535005 - Williamson County  
Not to Scale  
Locations are Approximate  
1-18-07





**DIGITAL PHOTOGRAPHS**



**Date: 1/18/2007  
Time: 11:41 A.M.  
Direction: southeast  
Photo by: S. Williams  
Exposure #: 001  
Comments:  
demolition debris,  
roofing material &  
metal**



**Date: 1/18/2007  
Time: 11:42 A.M.  
Direction: south  
Photo by: S. Williams  
Exposure #: 002  
Comments:  
demolition debris &  
shingles**

**File Names: 1998535005~01182007 - [Exp. #].jpg**



**DIGITAL PHOTOGRAPHS**



**Date: 1/18/2007**  
**Time: 11:43 A.M.**  
**Direction: southeast**  
**Photo by: S. Williams**  
**Exposure #: 003**  
**Comments: demolition wood, box springs, metal, sheet rock**



**Date: 1/18/2007**  
**Time: 11:44 A.M.**  
**Direction: southwest**  
**Photo by: S. Williams**  
**Exposure #: 004**  
**Comments: roofing waste, demolition wood, blackened tree trunks next to waste**

**File Names: 1998535005~01182007 - [Exp. #].jpg**



**DIGITAL PHOTOGRAPHS**



**Date: 1/18/2007  
Time: 11:45 A.M.  
Direction: southeast  
Photo by: S. Williams  
Exposure #: 005  
Comments: roofing  
waste, demolition  
debris & plastic  
buckets**

**Date:  
Time:  
Direction:  
Photo by:  
Exposure #:  
Comments:**

No Photo

**File Names: 1998535005~01182007 - [Exp. #].jpg**

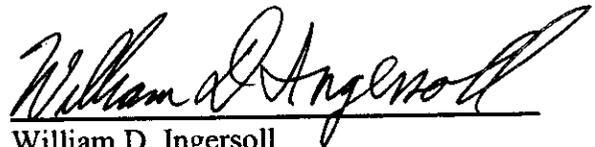
**PROOF OF SERVICE**

I hereby certify that I did on the 14th day of March, 2007 send by Overnight mail for hand delivery to the Marion Regional Office of the Illinois EPA, a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST for hand delivery

To: Ben & Destiny Wyant  
111 W. 5<sup>th</sup> Street  
West Frankfort, IL 62896

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



William D. Ingersoll  
Manager, Enforcement Programs

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