

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

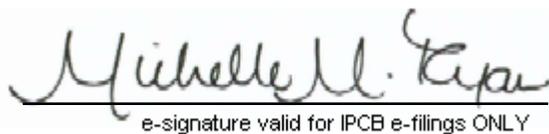
ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 09-14
)	
v.)	(IEPA No. 214-08-AC)
)	
REYNOLDS SERVICE CO., INC.,)	
)	
Respondent.)	

NOTICE OF FILING

To: Thomas J. Immel
 Feldman, Wasser, Draper & Cox
 1307 S. Seventh St.
 P.O. Box 2418
 Springfield, IL 62705

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled RESPONSE TO MOTION TO CLARIFY RECORD.

Respectfully Submitted,



e-signature valid for IPCB e-filings ONLY

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: November 17, 2008

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 09-14
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v.)	(IEPA No. 214-08-AC)
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REYNOLDS SERVICE CO., INC.,)	
)	
Respondent.)	

RESPONSE TO MOTION TO CLARIFY RECORD

NOW COMES the Complainant, the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorney, Special Assistant Attorney General Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.500(d), and in response to Respondent’s Motion To Clarify Record respectfully states as follows:

(1) On September 9, 2008, Illinois EPA issued an Administrative Citation to Respondent, Reynolds Service, Co., Inc., which was filed with the Pollution Control Board (“Board”) on the same date and logged on the Clerk’s Office OnLine (“COOL”) on September 11, 2008.

(2) The proof of service filed with the Board on September 25, 2008 indicates that the service date on Respondent was September 11, 2008, the same date that the Board received its file copy.

(3) Illinois EPA sends all Administrative Citations to the Respondent(s) and the Board at the same time, via certified mail, in the regular course of its business.

(4) In the instant case, Illinois EPA made a photocopy of both of the return receipt cards onto a single page prior to mailing. A copy of this photocopy is attached as Exhibit 1. The card

addressed to the Board is marked toward the center with "Reynolds AC 214-08," which is Illinois EPA's file number for the instant case.

(5) The same return receipt was received from the Board with an indicated service date of September 11, 2008 (Exhibit 2).

(6) Likewise, the return receipt addressed to Respondent as copied in Exhibit 1 was returned to Illinois EPA with an indicated service date of September 11, 2008 (Exhibit 3). The same certified number appears on both copies (#7004 2510 0001 8618 9101).

(7) Illinois EPA mailed a copy of the return receipt from Respondent to the Board on September 22, 2008.

(8) Respondent claims in its motion that "Respondent has received multiple documents from the offices of Complainant via certified mail on various dates and that the instant Citation was actually received by Respondent on September 29, 2008, *not* September 11..." (emphasis original). In its motion, Respondent offers no affidavit, certification, or other evidence to support this statement.

(9) Illinois EPA can neither confirm nor deny that one of the "offices of Complainant" may have sent additional material to Respondent "via certified mail on various dates." However, Illinois EPA can confirm that the Administrative Citation filed in the instant case is the only document related to *this* case that has been sent via certified mail.

(10) The only other document sent to Respondent regarding this case was the proof of service, sent via U.S. mail on September 22, 2008, which clearly indicated the Petition for Review deadline of October 16, 2008.

(11) Respondent's Petition for Review was not filed until October 30, 2008, and was therefore untimely. In addition, it does not contain any reason why the Respondent believes the

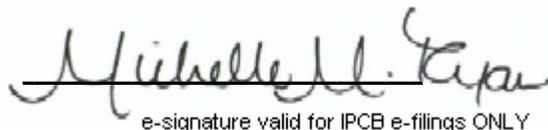
Administrative Citation was improperly issued, as required by 35 Ill. Adm. Code 108.206, and is therefore deficient in substance as well.

(9) Pursuant to 35 Ill. Adm. Code 108.406, as a non-contested Administrative Citation, the Board should issue an order assessing penalties consistent with 35 Ill. Adm. Code 108.500(a)(1).

WHEREFORE, Illinois EPA requests that the Board deny Respondent's Motion to Clarify Record, and issue a default order against Respondent, Reynolds Service, Co., Inc.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

DATED: November 17, 2008

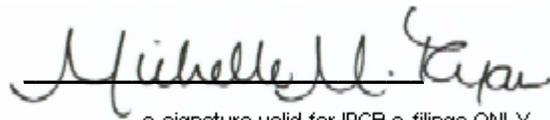
A handwritten signature in black ink, appearing to read "Michelle M. Ryan", is written over a horizontal line. Below the signature, the text "e-signature valid for IPCB e-filings ONLY" is printed in a small, sans-serif font.

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

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument entitled **RESPONSE TO MOTION TO CLARIFY RECORD** are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

A handwritten signature in black ink, appearing to read "Michelle M. Ryan", is written over a horizontal line. The signature is cursive and somewhat stylized.

e-signature valid for IPCB e-filings ONLY

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: November 17, 2008

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: Reynolds Service Co., Inc. Attn: Terry Reynolds 2875 Route 146 West P.O. Box 786 Jonesboro, IL 62952		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
		7004 2510 0001 8618 9101	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 		A. Signature X <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: John Thompson, Clerk Pollution Control Board James R. Thompson Center 100 W. Randolph St. Suite 11-500 Chicago, IL 60601		B. Received by (Printed Name) C. Date of Delivery	
2. Article Number (Transfer from service label)		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
		7004 2510 0001 8618 9118	
PS Form 3811, February 2004		Domestic Return Receipt	
		102595-02-M-1540	



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. <i>Reynolds</i> Attach this card to the back of the mailpiece, or on the front if space permits. <i>AC 214-08</i> 	A. Signature <i>John A. Br...</i>	<input type="checkbox"/> Agent <input type="checkbox"/> Addressee
1. Article Addressed to: <i>John Tharizwet, Clerk Pollution Control Board James R. Thompson Center 100 W. Randolph St. Suite 11-500 Chicago, IL 60601</i>	B. Received by (Printed Name) <i>Don A. Bran...</i>	C. Date of Delivery <i>9/11/08</i>
2. Article Number (Transfer from service label)	D. Is delivery address different from item 1? If YES, enter delivery address below:	
PS Form 3811, February 2004	3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
Domestic Return Receipt	4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
7004 2510 0001 8618 9118	102585-02-M-1540	



SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>[Handwritten Signature]</i> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery <i>9-11-08</i></p>
<p>1. Article Addressed to:</p> <p><i>Reynolds Service Co., Inc.</i> <i>Attn: Terry Reynolds</i> <i>2875 Route 146 West</i> <i>P.O. Box 786</i> <i>Jonesboro, IL 62952</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below: _____</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p><i>7004 2510 0001 8618 9101</i></p>

PS Form 3811, February 2004

Domestic Return Receipt

102585-02-M-1540



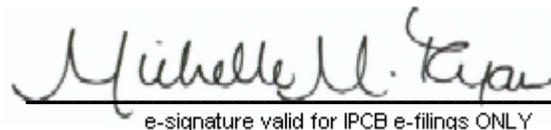
PROOF OF SERVICE

I hereby certify that I did on the 17th day of November, 2008, send by U.S. Mail 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 RESPONSE TO MOTION TO CLARIFY RECORD

To: Thomas J. Immel
Feldman, Wasser, Draper & Cox
1307 S. Seventh St.
P.O. Box 2418
Springfield, IL 62705

and an electronic copy of the same foregoing instrument on the same date via electronic filing

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



e-signature valid for IPCB e-filings ONLY

Michelle M. Ryan
Special Assistant Attorney General

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