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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

V-MAX MATERIALS, INC.

Respondent.

AC

04-36

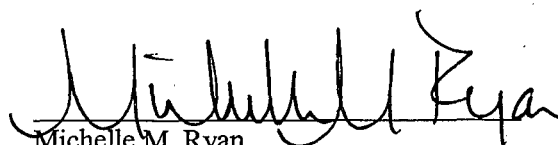
(IEPA No. 10-04-AC)

NOTICE OF FILING

To: V-Max Materials, Inc.
27W250 St. Charles Road
West Chicago, Illinois 60185

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: January 14, 2004

4. That on December 3, 2003, Michael Nechvatal, Manager of the Division of Land Pollution Control, Bureau of Land, for the Illinois Environmental Protection Agency witnessed litter being blown out of the vehicle. A copy of his observation and affidavit is attached hereto and made a part hereof.

VIOLATIONS

Based upon direct observations made by Michael Nechvatal on December 3, 2003, the Illinois Environmental Protection Agency has determined that Respondent has violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondent caused or allowed the open dumping of waste in a manner resulting in litter, a violation of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), Respondent is subject to a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) for each of the violations identified above, for a total of One Thousand Five Hundred Dollars (\$1,500.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than February 16, 2004, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2002), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondent shall be assessed the associated hearing costs incurred by the Illinois Environmental Protection Agency and the Illinois Pollution Control Board. Those hearing costs shall be assessed in addition to the One Thousand Five Hundred Dollar (\$1,500.00) statutory civil penalty for each violation.

Pursuant to Section 31.1(d)(1) of the Act, 415 ILCS 5/31.1(d)(1) (2002), if Respondent fails to petition or elects not to petition the Illinois Pollution Control Board for review of this Administrative

Citation within thirty-five (35) days of the date of service, the Illinois Pollution Control Board shall adopt a final order, which shall include this Administrative Citation and findings of violation as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, Respondent's check shall be made payable to the Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Along with payment, Respondent shall complete and return the enclosed Remittance Form to ensure proper documentation of payment.

If any civil penalty and/or hearing costs are not paid within the time prescribed by order of the Illinois Pollution Control Board, interest on said penalty and/or hearing costs shall be assessed against the Respondent from the date payment is due up to and including the date that payment is received. The Office of the Illinois Attorney General may be requested to initiate proceedings against Respondent in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS
ADMINISTRATIVE CITATION

Respondent has the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2002). If Respondent elects to contest this Administrative Citation, then Respondent shall file a signed Petition for Review, including a Notice of Filing, Certificate of Service, and Notice of Appearance, with the Clerk of the Illinois Pollution Control Board, State of Illinois Center, 100 West Randolph, Suite 11-500, Chicago, Illinois 60601. A copy of said Petition for Review shall be filed with the Illinois Environmental Protection Agency's Division of Legal Counsel at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276. Section 31.1 of the Act provides that any Petition for Review shall be filed within thirty-five (35) days of the date of service of this Administrative Citation or the Illinois Pollution Control Board shall enter a default judgment against the Respondent.


Renee Cipriano, Director
Illinois Environmental Protection Agency

Date: 1-13-04

Prepared by: Susan E. Konzelmann, Legal Assistant
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

 γ_1

V-MAX MATERIALS INC.,

Respondent.

AC

(IEPA No. 10-04-AC)

FACILITY: Interstate 55 @ Mile Marker 220
(V-Max Materials, Inc.)

SITE CODE NO.: 1630000000
(0430900039).

COUNTY: Grundy

CIVIL PENALTY: \$1,500.00

DATE OF INSPECTION: December 3, 2003

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

IN THE MATTER OF

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)
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IEPA DOCKET NO.

RESPONDENT

Affiant, Michael F. Nechvatal, being first duly sworn, voluntary deposes and states as follows:

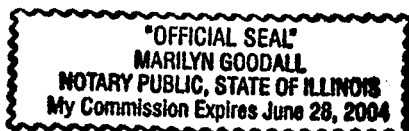
1. Affiant is the Manager of the Division of Land Pollution Control, Bureau of Land, for the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On December 3, 2003, at 4:13 PM Affiant witnessed litter being blown out of a vehicle with the license number 232 826 S/T. The company name on the side of the vehicle was V-Max Material.
3. As a result of the activities referred to in Paragraph 2 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 the Affiant's observations and factual conclusions with respect to said incident.

Subscribed and Sworn to before
Me this 5th day of January 2004

Marilyn Goodall

Notary Public

Michael F. Nechvatal



MEMORANDUM

DATE: December 5, 2003
TO: Division File
FROM: Michael Nechvatal
SUBJECT: Observation of litter

On the afternoon of December 3, 2003 I was riding in a car being driven by David Walters heading north on Interstate 55. At the time I was on a conference call with the Product Stewardship Institute. As we got passed the Dwight Interchange I noticed a long-haul garbage truck in front of us was driving with the tailgates fully open apparently returning to Chicago after delivering its load to the Livingston County Landfill in Pontiac. Two white plastic bags were swirling in the bed of the truck and as I watched, the two bags rose from the trailer bed, flew out of the trailer and left my sight, presumably landing on the side of the roadway. I looked at my watch which read 4:13 pm. Also, I looked at the next mile marker that we passed which was posted as mile 220.

The trailer license plate was: 232 826 S/T. A placard was on one of the opened trailer doors which said that litter leaving that vehicle could be reported to 1-888-693-9900 and designated a trailer number as reference. That trailer number was not very legible and appeared to be 03 or 08 but might have been neither of those numbers, since the printing had faded so much. The company name on the side of the tractor was V-Max Material.

At 4:35 pm, when I was done with my conference call, I called the 888 number on the back of the waste trailer. The person answering the phone identified himself as "Livingston Landfill". I identified myself with my name and my position with the Agency and relayed the trash littering that I had observed along with the identification on the vehicle. The person on the phone told me that the trailer would get a "violation", and that it had probably not been swept out. I thanked him for listening to my complaint and hung up.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: GRUNDY LPC#: 0630000000 Region: 2 - Des Plaines
 Location/Site Name: INTERSTATE 55 @ MILE MARKER 220
 Date: 12/03/2003 Time: From 4:13 p.m. To Previous Inspection Date:
 Inspector(s): MICHAEL NECHVATAL Weather:
 No. of Photos Taken: # Est. Amt. of Waste: yds³ Samples Taken: Yes # No ☐
 Interviewed: Complaint #:

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

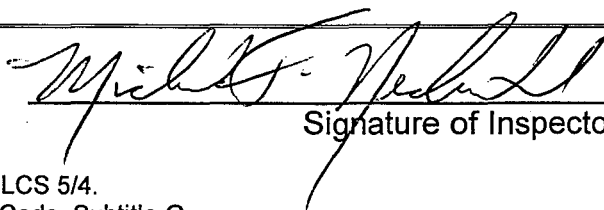
V-Max Material, Inc.
 27W250 St. Charles Road
 West Chicago, IL 60185
 David Cooper - Registered Agent

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	<input type="checkbox"/>
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	<input type="checkbox"/>
7.	21(e)	DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT	<input type="checkbox"/>
8.	21(p)	CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:	
	(1)	Litter	<input checked="" type="checkbox"/>
	(2)	Scavenging	<input type="checkbox"/>
	(3)	Open Burning	<input type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>

LPC #

Inspection Date:

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	<input type="checkbox"/>
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
11.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
12.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
13.	809.302(a)	ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST	<input type="checkbox"/>
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
15.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>


Signature of Inspector(s)

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

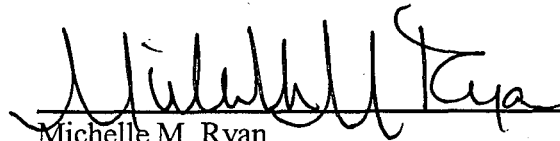
PROOF OF SERVICE

I hereby certify that I did on the 14th day of January 2004, send by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST

To: V-Max Materials, Inc.
27W250 St. Charles Road
West Chicago, Illinois 60185

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid

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


Michelle M. Ryan
Special Assistant Attorney General

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