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APR 06 2004

STATE OF ILLINOIS  
Pollution Control Board

*Ac04-62*

## 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 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.**

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL )  
 PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. )  
 )  
 ONYX ENVIRONMENTAL SERVICES, )  
 )  
 Respondent. )

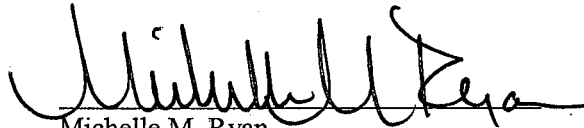
AC 04-62  
 (IEPA No. 136-04-AC)

NOTICE OF FILING

To: Onyx Environmental Services  
 W124 N9451 Boundary Road  
 Menomonee Falls, Wisconsin 53051

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 31, 2004



## VIOLATIONS

Based upon direct observations made by Todd Marvel on March 11, 2004, 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 May 17, 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  
Renee Cipriano, Director *by use*  
Illinois Environmental Protection Agency

Date: 3/31/04

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,	)	AC
	)	
v.	)	(IEPA No. 136-04-AC)
	)	
ONYX ENVIRONMENTAL SERVICES,	)	
	)	
Respondent.	)	

FACILITY: Interstate 55 between Mile Markers 201 & 212	SITE CODE NO.: 1050000000
(Onyx Environmental Services)	(9551330002)
COUNTY: Livingston	CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: March 11, 2004	

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

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

IEPA DOCKET NO.

RESPONDENT

Affiant, Todd J. Marvel, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is the Assistant Manager of the Field Operations Section 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 March 11, 2004 at approximately at 2:40 p.m., Affiant witnessed litter being blown out of a vehicle with Wisconsin license number 412337. The company name on the side of the vehicle was Onyx Environmental Services (Menomonee Falls, WI).
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.

Todd J. Marvel

Subscribed and Sworn to before  
Me this 17<sup>th</sup> day of March

Marilyn Goodall

Notary Public





# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## Open Dump Inspection Checklist

County: Livingston      LPC#: 1050000000      Region: 4 - Champaign  
 Location/Site Name: Southbound Interstate 55 Between Mile Markers 212 and 201  
 Date: 03/11/2004    Time: From 2:30 p.m. To 2:45 p.m.    Previous Inspection Date: \_\_\_\_\_  
 Inspector(s): Todd Marvel      Weather: Cloudy, 20 F, Extremely Windy (50 mph gusts)  
 No. of Photos Taken: # 0    Est. Amt. of Waste: \_\_\_\_\_ yds<sup>3</sup>    Samples Taken: Yes # \_\_\_\_\_ No   
 Interviewed: None      Complaint #: N/A

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


Onxy Environmental Services  
 Menomonee Falls, WI

	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 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 # 1050000000

Inspection Date: 03/11/2004

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input 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)	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"/>
<b>OTHER REQUIREMENTS</b>			
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.

105000000 – Livingston County  
Interstate 55 Mile Markers (212 – 201)  
FOS File

March 17, 2004

On March 11, 2004 at approximately 2:40 p.m., I was returning from Chicago to Springfield. I was traveling south on I-55 and observed an Onxy Environmental Services (Menomonee Falls, WI) tractor-trailer traveling south on I-55. The trailer contained a roll-off box that was improperly covered with an orange-red solid tarp that was loosely secured by flexible black strapping. The USDOT number on the tractor was 609181 and the WI DNR number was 3800. The trailer had Wisconsin plates (412337).

The conditions at the time were extremely windy with Chicago radio reporting wind gusts of up to 50 mph that afternoon. The tarp was not secured properly and was flapping wildly in the rear of the roll-off box. I observed several pieces of litter exit the container while in transit. The litter consisted mainly of clear plastic sheeting and other miscellaneous small pieces of litter. I observed this plastic sheeting flapping wildly in the wind at the rear of the roll-off-box during the entire approximately eleven miles that I followed the truck.

I followed the truck to Pontiac exit 201 (Livingston Landfill) to refuel. The tractor-trailer continued south on I-55 so it was apparently not headed to the Livingston Landfill.

Apparent Violations:

21(a) of the Act: Causing or allowing open dumping

21(p)(1) of the Act: Cause or allow the open dumping of any waste in a manner that results in litter.

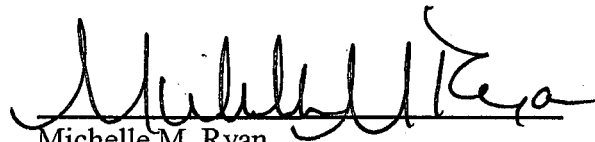
**PROOF OF SERVICE**

I hereby certify that I did on the 31st day of March 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: Onyx Environmental Services  
W124 N9451 Boundary Road  
Menomonee Falls, Wisconsin 53051

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