



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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) 814-6026

PAT QUINN, GOVERNOR

LISA BONNETT, DIRECTOR

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JUN 04 2013

STATE OF ILLINOIS
Pollution Control Board

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

May 30, 2013

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

AC13-54
ORIGINAL

Re: Illinois Environmental Protection Agency v. Glay McMillen
IEPA File No. 123-13-AC; 1768115003—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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

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STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

GLAY McMILLEN,

Respondent.

AC

(IEPA No. 123-13-AC)

NOTICE OF FILING

To: Glay McMillen
4462 Coulter Road
Oakley, IL 62561

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
Assistant Counsel

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

Dated: May 30, 2013

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JUN 04 2013
STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.)
)
GLAY Mc MILLEN,)
)
)
)
)
Respondent.)

AC 13-54
(IEPA No. 123-13-AC)

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by Section 31.1 of the Illinois Environmental Protection Act, 415 ILCS 5/31.1 (2010).

FACTS

1. That Glay Mc Millen is the current owner ("Respondent") of a facility at the following legal description:

Parcel No 1208-23-00-100-010 5.08 acres. North half of northwest quarter of Section 23, township 12 north, Range 4 east of the 3rd Principal meridian, Shelby County, Illinois. Beginning at the SW corner of the NW quarter of the NW quarter of Section 32, then north 0 degrees 57'53"west, 320.98 feet along the west line of the NW quarter of Section 23, thence south 89 degrees 13'01" east—678.17 feet, then south 0 degree 57'43" east==323.23 feet to a point on the south line of the NW quarter of the NW quarter of said Section 23, thence North 89 degrees 01'36"—678.24 feet along said line south to the point of beginning.

This property is located in Rock Island County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Findlay/McMillen.

2. That said facility is designated with Site Code No. 1768115003.
3. That Respondent has owned said facility at all times pertinent hereto.
4. That on April 11, 2013, Dustin Burger of the Illinois Environmental Protection Agency's ("Illinois EPA") Champaign Regional Office inspected the above-described facility. A copy

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

5. That on 5-30-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 2998 5690.

VIOLATIONS

Based upon direct observations made by Dustin Burger during the course of his April 11, 2013 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).

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 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 June 28, 2013, 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.

Lisa Bonnett by SOP

Date:

5/29/2013

Lisa Bonnett, Director
Illinois Environmental Protection Agency

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

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JUN 04 2013

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.)
)
GLAY MC MILLEN)
)
)
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)
Respondent.)

AC **13-54**
(IEPA No. 123-13-AC)

FACILITY: Findley/McMillen
SITE CODE NO.: 1768115003
COUNTY: Shelby
CIVIL PENALTY: \$1,500.00
DATE OF INSPECTION: April 11, 2013

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

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CLERK'S OFFICE

JUN 04 2013

STATE OF ILLINOIS
Pollution Control Board

AC13-54

AFFIDAVIT

IN THE MATTER OF:

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Glax McMillen.,

IEPA DOCKET NO.

Respondent

Affiant, Dustin Burger, 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 April 11, 2013, between 11:15 A.M. and 12:10 A.M., Affiant conducted an inspection of the site in Shelby County, Illinois, known as Findlay/McMillen near Findlay, Illinois, Illinois Environmental Protection Agency Site No. 1738115003.

3. Affiant inspected said Findlay/McMillen site by an on-site inspection which included photographing 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 Findlay/McMillen site.

Dustin Burger

Subscribed and Sworn to before me

this 17 day of May,
2013.

Rebecca L. Harden
Notary Public



Open Dump Inspection Checklist

County: Shelby LPC#: 1738115003 Region: 4 - Champaign
Location/Site Name: Findlay/McMillen
Date: 4/11/2013 Time: From 11:15A To 12:10P Previous Inspection Date: 9/19/2012
Inspector(s): Dustin Burger Weather: Pt. Cloudy, very wet, 50s
No. of Photos Taken: # 5 Est. Amt. of Waste: 200 yds³ Samples Taken: Yes # _____ No ☒
Interviewed: _____ Complaint #: _____
Latitude: N39.47447 Longitude: W-88.73307 Collection Point Description: Center of Site -
(Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: - Google Maps

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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 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 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 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 # 1738115003

Inspection Date: 4/11/2013

	(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 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 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#1738115003—Shelby County
Findlay/McMillen
FOS File
April 11, 2013
Inspector: Dustin Burger

Narrative Inspection Report

I conducted an open dump reinspection at the above referenced facility on April 11, 2013. The inspection lasted from approximately 11:15 A.M. until 12:10 P.M. 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). Four photos and no samples were taken. The weather was Cloudy with some light rain and very wet, with temperatures in the 50s.

This rural property near Lake Shelbyville was formerly owned by Jeffery Carleton of Broadlands, Illinois. It was inspected in 2004 and 2005 by Deanna Carlock, who cited open dumping violations for a large number of railroad ties and other wastes dumped along the treeline of the property.

Since the last inspection, according to the Shelby County Assessor's Office, the property was sold to Glay McMillen of Oakley, Illinois. The property consists of a metal shed that houses several campers in extended eaves. It looks like part of the building has been improved to be a vacation residence. The property also contains a milo and sunflower field. I speculated the property is used for camping, hunting, and fishing on the nearby lake. This assumption was confirmed when I later spoke with Mr. McMillen. He said that he would use the railroad ties as a border on his driveway and property.

Current Inspection

When I arrived, no one else was at the property. The tote tank was still present, but McMillen had said the tank held water since the property does not have a well. The treeline still had the large pile of railroad ties. The pile was approximately 50 feet long and 3-5 feet high (photos 1-4). A few pieces of metal were also in the pile (photo 2), but the majority of the material consisted of used railroad ties. I estimated the material would fill a 100 yard semi-trailer.

Regulated Status

The site is still regulated as an open dump. While the railroad ties could be used for a landscape project, the owner has not done so and they remain piled in the treeline.

Apparent violations resolved during this inspection:

Sections 722.11 and 808.121(a)—The tote tank on-site contains only water.

Continuing 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 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.**

- #2 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.**

- #3 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.**

- #4 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 disposed of at this site which does not meet the requirements of the Act and of regulations and standards thereunder.**

#5 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.**



Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC #1738115003—Shelby County
Findlay/McMillen
FOS File

DATE April 11, 2013
TIME 11:15-12:10 P.M.
DIRECTION: East
PHOTO by: Dustin Burger
PHOTO FILENAME
1738115003~04112013-001.jpg
COMMENTS:



DATE April 11, 2013
TIME 11:15-12:10 P.M.
DIRECTION: East
PHOTO by: Dustin Burger
PHOTO FILENAME
1738115003~04112013-002.jpg
COMMENTS:





Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC #1738115003—Shelby County
Findlay/McMillen
FOS File

DATE April 11, 2013
TIME 11:15-12:10 P.M.
DIRECTION: East
PHOTO by: Dustin Burger
PHOTO FILENAME
1738115003~04112013-003.jpg
COMMENTS:



DATE April 11, 2013
TIME 11:15-12:10 P.M.
DIRECTION: East
PHOTO by: Dustin Burger
PHOTO FILENAME
1738115003~04112013-004.jpg
COMMENTS:



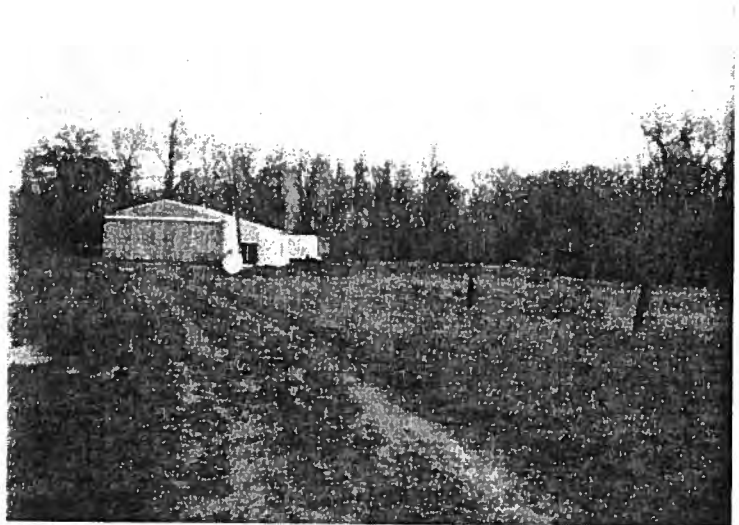


Illinois Environmental Protection Agency
Bureau of Land

DIGITAL PHOTOGRAPHS

LPC #1738115003—Shelby County
Findlay/McMillen
FOS File

DATE April 11, 2013
TIME 11:15-12:10 P.M.
DIRECTION: North
PHOTO by: Dustin Burger
PHOTO FILENAME
1738115003~04112013-005.jpg
COMMENTS: view of property from
road





PROOF OF SERVICE

I hereby certify that I did on the 30th day of May 2013, 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: Glay McMillen
4462 Coulter Road
Oakley, IL 62561

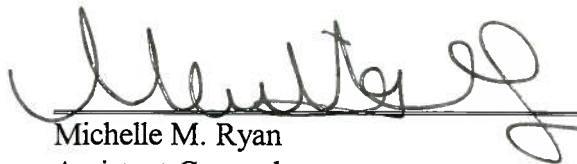
RECEIVED
CLERK'S OFFICE

JUN 04 2013

STATE OF ILLINOIS
Pollution Control Board

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