

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of Perry.



David Searby, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618) 357-6221

DATED: May 31, 2013

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. Seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Union Pacific Railroad, is the present owner; and is in control and possession of a facility located in the County of Perry, State of Illinois. The Registered Agent of Union Pacific Railroad, is CT Corporation Systems.

2. The facility is an open dump and designated with the Site Code #1450155056. The facility is known to the Agency as the Pinckneyville/Union Pacific Railroad site.

3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.

4. On May 15, 2013, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on May 15, 2013, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), 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 August 1, 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 (2006), and if the Illinois Pollution Control Board issues a finding of violation(s) 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 Fifteen Hundred Dollars (\$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), 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 a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

- (1) Perry County Solid Waste, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Complainant may initiate proceedings against Respondent in Circuit Court or other debt collection actions to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS ADMINISTRATIVE CITATION

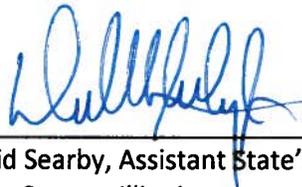
Respondent has the right to contest this Administrative Citation pursuant to and in accordance with 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with David Searby, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. Your petition must state the reason(s) you believe the present matter should not be issued. If you fail to file your petition and state the reasons the present matter should not be issued, a default order against you will be entered by the Illinois Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk, Pollution Control Board
100 West Randolph, Suite 11-500
Chicago, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, David Searby
Assistant State's Attorney
Perry County Courthouse
Pinckneyville, IL 62274



David Searby, Assistant State's Attorney
Perry County, Illinois

DATE: May 31, 2013

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

 ORIGINAL

FACILITY: Pinckneyville/Union Pacific Railroad

COUNTY: Perry

DATE OF INSPECTION: May 15, 2013

SITE CODE: 1450155056

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Perry County Solid Waste
c/o Perry County Treasurer
Perry County Government Building
3764 State Route 13/127
Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

FACILITY: Pinckneyville/Union Pacific Railroad

COUNTY: Perry

DATE OF INSPECTION: May 15, 2013

SITE CODE: 1450155056

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Illinois Environmental Protection Agency
Attention: Fiscal Services
PO Box 19276
Springfield, IL 62794-9276

PROOF OF SERVICE

I hereby certify that I did on the 31st day of May 2013, transmit to the Cook County Sheriff's Department a true and correct copy of the following instrument(s) entitled

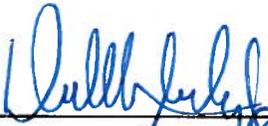
ADMINISTRATIVE CITATION, AFFIDAVITS, OPEN DUMP INSPECTION CHECKLIST, OPEN DUMP NARRATIVE, SITE SKETCH AND PHOTO SHEETS, which will be served upon the following:

To: Union Pacific Railroad
c/o Registered Agent CT Corporation Systems
208 South LaSalle Street, Suite 814
Chicago, IL 60604

RECEIVED
CLERK'S OFFICE
JUN - 6 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: Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218



David Searby, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

COUNTY OF PERRY
AFFIDAVIT

RECEIVED
CLERK'S OFFICE
JUN - 6 2013
STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 Union Pacific Railroad, c/o Registered Agent,)
 CT Corporation Systems,)
)
 Respondent.)

AC 13 - 55

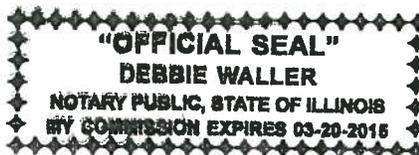
Affiant, Rebecca Tracy, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Perry County Solid Waste Management Department and has been so employed at all times pertinent hereto.
2. On May 15, 2013 between the hours of 1:42 p.m. and 1:43 p.m., Affiant conducted an inspection of the open dump site known as Pinckneyville/Union Pacific Railroad, Perry County, Illinois. Said site has been assigned Site Code No. 1450155056.
3. Affiant inspected said open dump site by an on-site inspection.
4. As a result of the activities referred to in Paragraphs 2 and 3 above, Affiant completed the Open Dump Inspection Checklist and Narrative Inspection Report 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 open dump site known as Pinckneyville/Union Pacific Railroad

Rebecca Tracy
REBECCA TRACY, Environmental Compliance Inspector

Subscribed and Sworn to before me this
30th day of May, 2013.

Debbie Waller
Notary Public



LPC # 1450155056

Inspection Date: 05/15/2013

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"/>
ELECTRONIC PRODUCTS RECYCLING AND REUSE ACT REQUIREMENTS			
11.	95(a)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A COVERED ELECTRONIC DEVICE (CED) OR OTHER LISTED DEVICE WITH MUNICIPAL WASTE THAT IS INTENDED FOR DISPOSAL AT A LANDFILL	<input type="checkbox"/>
12.	95(b)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE DISPOSAL OF A CED OR OTHER LISTED DEVICE IN A SANITARY LANDFILL	<input type="checkbox"/>
13.	95(c)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE MIXING OF A CED OR OTHER LISTED DEVICE WITH WASTE THAT IS INTENDED FOR DISPOSAL BY BURNING OR INCINERATION	<input type="checkbox"/>
14.	95(d)	NO PERSON MAY KNOWINGLY CAUSE OR ALLOW THE BURNING OR INCINERATION OF A CED OR OTHER LISTED DEVICE	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
15.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
16.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
17.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
18.	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"/>
19.	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			
20.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
21.	OTHER:		<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>

Informational Notes

1. [Illinois] Environmental Protection Act: 415 ILCS 5/1 et seq.; and The Electronic Products Recycling and Reuse Act: 415 ILCS 150/5 et seq.
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, subsection (k) of Section 55 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of that Act or by complaint under Section 31 of that Act. Violation of the Electronic Products Recycling and Reuse Act shall be enforceable by administrative citation under Section 20(k) of that Act, or referral to the Attorney General, pursuant to Section 20(a) of that 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); and Section 20(a) of the Electronic Products Recycling and Reuse Act: 415 ILCS 150/20(a).
6. Items marked with an "NE" were not evaluated at the time of this inspection.

**Perry County Solid Waste Management Department
Narrative Inspection Report**

Site #: 1450155056
County: Perry

Date: 05/15/2013
Inspector: Rebecca Tracy

Subject: Union Pacific Railroad
1400 Douglas Street
Omaha, NE 68179

Site: Intersection of railroad tracks and Fairground Road near the intersection of Highway 154

On May 15, 2013, an open dump inspection was performed at the intersection of Union Pacific Railroad and Fairground Road in Pinckneyville, IL. The intersection is the one near the ball fields in the fairgrounds and Highway 154. The weather conditions were 85 degrees.

The information obtained from the Perry County Assessor's office indicates that the owner of the property is Union Pacific Railroad, 1400 Douglas Street, Omaha, NE 68179. According to the Illinois Secretary of State, the Registered Agent for Union Pacific is CT Corporation System, 208 South LaSalle Street, Suite 814, Chicago, IL 60604.

I arrived at the site at 1:42 p.m.

Photo 001 depicts open dumped railroad property in the form of spikes and buckets.

I left the site at 1:43 p.m.

DISCUSSION:

I contacted the number for illegal activity listed on the Union Pacific Railroad website several times regarding this matter. I was told by a representative of the company that the site would be cleaned up. However, the site was only partially cleaned up. The dump site is clearly visible from the road, is in a highly used recreational area and has the potential to cause problems in the form of further illegal dumping. The open dumped material is clearly railroad property.

VIOLATIONS:

ILLINOIS ENVIRONMENTAL PROTECTION ACT

21(a) No Person Shall Cause or Allow Open Dumping

21(e) No Person Shall Dispose, Treat, Store, or Abandon any Waste, or Transport any Waste into the State at/to Sites not Meeting Requirements of Act and Regulations

21(p) No Person Shall 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

During the inspection, the open dumping of waste that resulted in litter in the form of railroad spikes and buckets was observed.



DIGITAL PHOTOGRAPHS



Date: 05/15/2013
Time: 1:42 p.m.
Direction: Northeast
Photo by: R. Tracy
Exposure #: 001
Comments: open
dumped railroad
spikes and buckets

SITE SKETCH

Date of Inspection: 05/15/2013

Time: 1:42 p.m. -- 1:43 p.m.

Site Code: 1450155056

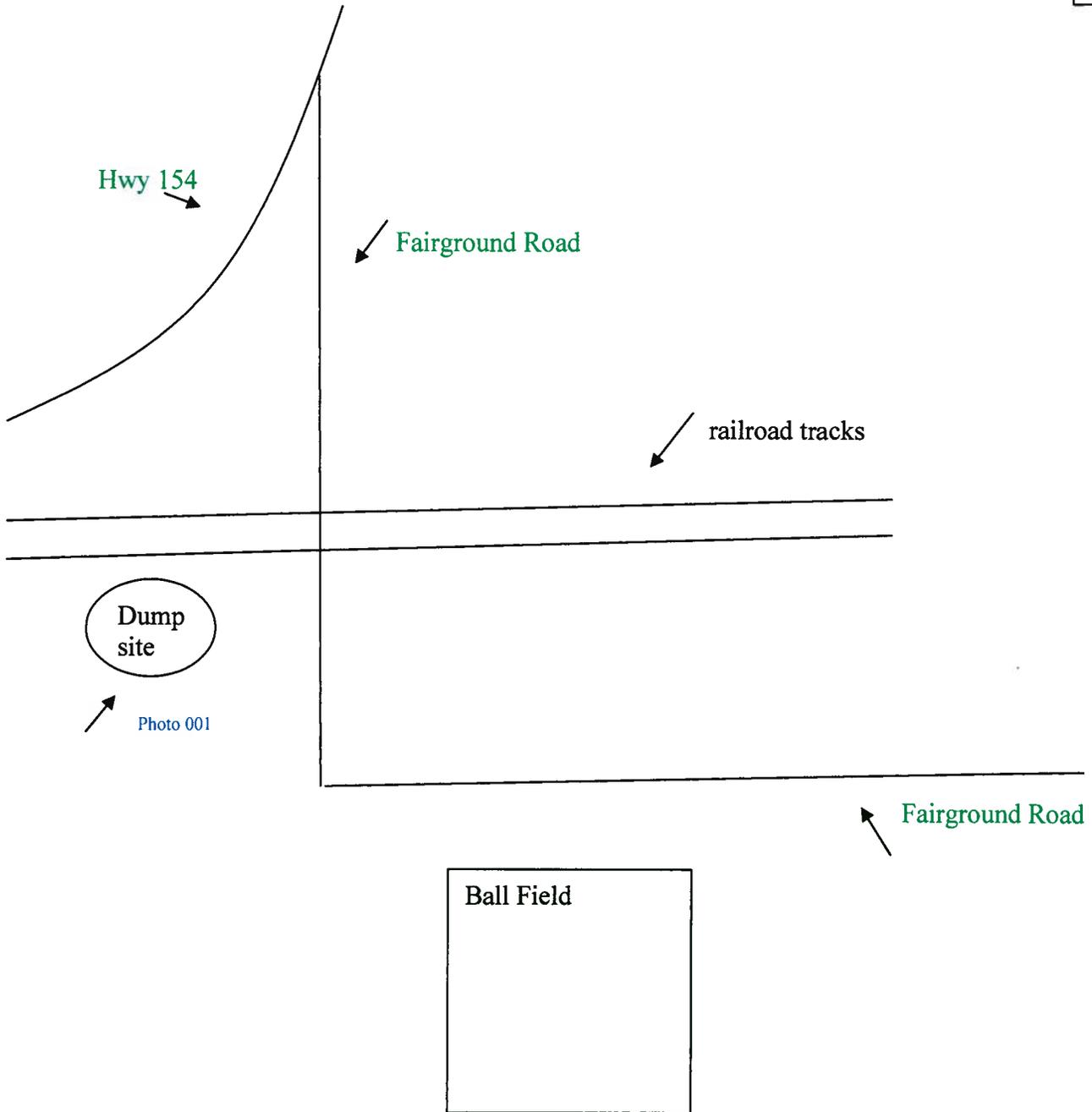
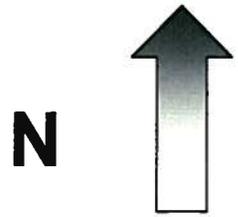
Site Name: Union Pacific Railroad/Pinckneyville

County: Perry

Inspector: Rebecca Tracy

Est. Waste Volume: 5 cubic yards

Previous Inspection: 01/28/2013



Not Drawn to Scale / All Location Approx. / photo direction →



OFFICE OF STATE'S ATTORNEY

Perry County, Illinois

1 Public Square – Perry County Courthouse

Pinckneyville, Illinois 62274

Telephone: (618) 357-6221 / Facsimile: (618) 357-3923

DAVID N. STANTON

State's Attorney

MARTIN M. BELTZ
DAVID H. SEARBY, JR.
Assistant State's Attorneys

RECEIVED
CLERK'S OFFICE

JUN - 6 2013

STATE OF ILLINOIS
Pollution Control Board



ORIGINAL

May 31 2013

Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

AC13-55

RE: Administrative Citation – Perry County/Union Pacific Railroad
Site Code: 1450155056
Inspection Date: May 15, 2013

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Union Pacific Railroad. The Respondent's Registered Agent, CT Corporation System's, mailing address is 208 South LaSalle Street, Suite 814, Chicago, IL 60604.

I will file proof of service once that is obtained on Respondent. Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,

David Searby
Assistant State's Attorney
Perry County, Illinois

Enclosures

cc: Rebecca Tracy, Perry County Solid Waste w/enclosures
IEPA Springfield (Ellen Robinson w/enclosures)
IEPA Marion (Sheila Williams w/enclosures)