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CLERK'S OFFICE

FEB 27 2007

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

February 22, 2007

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Isaacson Construction, Inc.***  
**PCB No. 07-25**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing Answer to Affirmative Defenses in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristen Laughridge Gale", is written over a printed name and address.

Kristen Laughridge Gale  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

KLG/pp  
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
CLERK'S OFFICE

FEB 27 2007

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 ISAACSON CONSTRUCTION, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 07-25  
(Enforcement)

NOTICE OF FILING

To: Fred C. Prillaman  
Mohan, Allewelt, Prillaman & Adami  
One North Old State Capital Plaza, Ste. 325  
Springfield, IL 62701

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, an ANSWER TO AFFIRMATIVE DEFENSES, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY: 

KRISTEN LAUGHRIDGE GALE  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: February 22, 2007

## CERTIFICATE OF SERVICE

I hereby certify that I did on February 22, 2007, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING and ANSWER TO AFFIRMATIVE DEFENSES

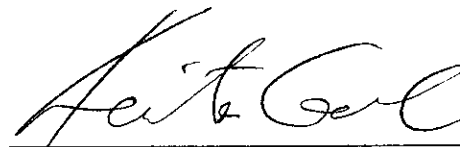
To: Fred C. Prillaman  
Mohan, Allewelt, Prillaman & Adami  
One North Old State Capital Plaza, Ste. 325  
Springfield, IL 62701

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

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

A copy was also sent by First Class Mail with postage thereon fully prepaid to:

Carol Webb  
Hearing Officer  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
Springfield, IL 62794



KRISTEN LAUGHRIDGE GALE  
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
vs. )  
)  
ISAACSON CONSTRUCTION, INC., an )  
Illinois corporation, )  
)  
Respondent. )

No. PCB 07-25  
(Enforcement)

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STATE OF ILLINOIS  
Pollution Control Board

ANSWER TO AFFIRMATIVE DEFENSES

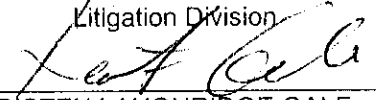
NOW COMES Complainant, People of the State of Illinois, with its Answer to Affirmative Defenses, and states as follows:

1. Deny. The State issued a written notice of violation on June 2, 2004. It is attached as Exhibit A. The remaining allegation states a legal conclusion and no further answer is warranted.
2. The paragraph states a legal conclusion and no answer is warranted.
3. The paragraph states a legal conclusion and no answer is warranted.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN,  
Attorney General of the  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/Asbestos  
Litigation Division

BY:   
KRISTEN LAUGHRIDGE GALE  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: 2/21/07



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276  
JAMES R. THOMPSON CENTER, 100 WEST RANDOLPH, SUITE 11-300, CHICAGO, IL 60601

ROD R. BLAGOJEVICH, GOVERNOR

RENEE CIPRIANO, DIRECTOR

**RECEIVED**

Division of Legal Counsel

OCT 29 2004

Environmental Protection Agency

Voice: 217/278-5800  
FAX: 217/278-5808

June 2, 2004

Isaacson Construction  
Dave Isaacson, Owner  
1300 Fort Jesse Road  
Normal, Illinois 61761

CERTIFIED MAIL#70022030000544245181  
RETURN RECEIPT REQUESTED

**RECEIVED**

JUN 03 2004

IEPA-DLPC

Re: **Violation Notice, L-2004-01189**  
LPC#1130905116—McLean County  
Normal/Isaacson Construction  
Compliance File

Dear **Mr. Isaacson:**

This constitutes a Violation Notice pursuant to Section 31(a)(1) of the Illinois Environmental Protection Act, 415 ILCS 5/31(a)(1), and is based on an inspection completed on April 25, 2004 by representatives of the Illinois Environmental Protection Agency ("Illinois EPA").

The Illinois EPA hereby provides notice of violations of environmental statutes, regulations, or permits as set forth in the attachment to this letter. The attachment includes an explanation of the activities that the Illinois EPA believes may resolve the specified violations, including an estimate of a reasonable time period to complete the necessary activities. Due to the nature and seriousness of the violations cited, please be advised that resolution of the violations may require the involvement of a prosecutorial authority for purposes that may include, among others, the imposition of statutory penalties.

A written response, which may include a request for a meeting with representatives of the Illinois EPA, must be submitted via certified mail to the Illinois EPA within 45 days of receipt of this letter. The response must address each violation specified in the attachment and include for each an explanation of the activities that will be implemented and the time schedule for the completion of that activity. The written response will constitute a proposed Compliance Commitment Agreement ("CCA") pursuant to Section 31 of the Act. The Illinois EPA will review the proposed CCA and will accept or reject it within 30 days of receipt.



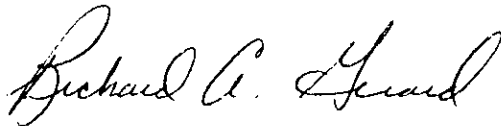
If a timely written response to this Violation Notice is not provided, it shall be considered to be a waiver of the opportunity to respond and to meet provided by Section 31(a) of the Act, and the Illinois EPA may proceed with a referral to the prosecutorial authority.

Written communications should be directed to:

Illinois EPA – Bureau of Land  
Attn: Dustin Burger  
2125 South First Street  
Champaign, Illinois 61820

All communications must include reference to your **Violation Notice L-2004-01189**. If you have questions regarding this matter, please contact Dustin Burger at 217/278-5800.

Sincerely,

A handwritten signature in cursive script that reads "Richard A. Gerard".

Richard A. Gerard, Manger  
Champaign Region  
Bureau of Land

RAG:DLB

bcc: Division File  
Champaign Region

## ATTACHMENT A

*Environmental Protection Act. 415 ILCS 5/1 et. seq. (formerly Ill. Rev. Stat. Ch. 111 2, 1001 et. seq.) (hereinafter called the "Act")*

1. Pursuant to Section 12(a) of the Act states that no person shall cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

A violation of Section 12(a) of the [Illinois] Environmental Protection Act (415 ILCS 5/12(a)) is alleged for the following reason: **Contaminants in the form of used oil and waste concrete sealer were discharged into the environment so as to cause or tend to cause water pollution in Illinois.**

2. Pursuant to Section 12(d) of the Act, no person shall deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

A violation of Section 12(d) of the [Illinois] Environmental Protection Act (415 ILCS 5/12(d)) is alleged for the following reason: **Contaminants were deposited onto the ground in a manner that creates a water pollution hazard.**

3. 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) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(a)) is alleged for the following reason: **Waste oil and concrete sealer were open dumped at this site.**

4. Pursuant to Section 21(d)(1) of the Act, in relevant part, no person shall conduct any waste-storage, waste-treatment, or waste-disposal operation without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted there under.

A violation of Section 21(d)(1) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)(1)) is alleged for the following reason: **Waste was disposed at this site without a permit granted by the Agency.**

5. 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 Board under this Act.

A violation of Section 21(d)(2) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(d)(2)) is alleged for the following reason: **A waste-disposal operation was conducted at this site in violation of regulations and standards adopted by the Board.**

6. 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 there under.

A violation of Section 21(e) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(e)) is alleged for the following reason: **Waste oil and concrete sealer were disposed of at this site in violation of the Act and Regulations adopted thereunder.**

7. Pursuant to Section 21(f) of the Act, no person shall conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder.

A violation of Section 21(f) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(f)) is alleged for the following reason: **Ignitable hazardous waste was disposed at this site without a RCRA permit.**

8. Pursuant to Section 21(p) of the [Illinois] Environmental Protection Act (415 ILCS 5/21(p)), no person shall, in violation of subdivision (a) of this Section[21], cause or allow the open dumping of any waste in a manner which results in

1. litter;
2. scavenging;
3. open burning;
4. deposition of waste in standing or flowing waters;
5. proliferation of disease vectors; or
6. standing or flowing liquid discharge from the dump site.
7. deposition of:
  - (i) general construction or demolition debris as defined in Section 3.78 of this Act; or
  - (ii) clean construction or demolition debris as defined in Section 3.78a of this Act.



The prohibitions specified in this subsection (p) shall be enforceable by the Agency either by administrative citation under Section 31.1 of this Act or as otherwise provided by this Act. The specific prohibitions in this subsection do not limit the power of the Board to establish regulations or standards applicable to open dumping.

A violation of Section 21(p) (1) of the [Illinois] Environmental Protection Act (415 ILCS 21(p)) is alleged for the following reasons: **Wastes were open dumped at this site resulting in (1) litter.**

*35 Illinois Administrative Code. (Title 35: Environmental Protection, Subtitle G: Waste Disposal, Chapter I: Pollution Control Board) [Regulations]*

9. Pursuant to 35 Ill. Adm. Code Section 703.121(a), no person shall conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation:

- 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
- 2) In violation of any condition imposed by a RCRA permit.

A violation of 35 Ill. Adm. Code 703.121(a) is alleged for the following reason: **Hazardous waste was disposed without a RCRA permit.**

10. Pursuant to 35 Ill. Adm. Code 725.111, every facility owner or operator must apply to EPA for an EPA identification number in accordance with the EPA notification procedures (45 FR 12746).

A violation of 35 Ill. Adm. Code 725.111 is alleged for the following reason: **The facility does not have a USEPA identification number.**

11. Pursuant to 35 Ill. Adm. Code 725.113(a), waste analysis:

- 1) Before an owner or operator treats, stores, or disposes of any hazardous wastes, or non-hazardous wastes if applicable under Section 725.213(d), the owner or operator shall obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information that must be known to treat, store, or dispose of the waste in accordance with this Part and 35 Ill. Adm. Code 728.
- 2) The analysis may include data developed under 35 Ill. Adm. Code 721 and existing published or documented data on the hazardous waste or on waste generated from similar processes.

BOARD NOTE: For example, the facility's record of analyses performed on the waste before the effective date of these regulations or studies conducted on hazardous waste generated from processes similar to that which generated the waste to be managed at the facility may be included in the data base required to comply with subsection (a)(1) of this Section, except as otherwise specified in 35 Ill. Adm. Code 728.107(b) and (c). The owner or operator of an off-site facility may arrange for the generator of the hazardous waste to supply part or all of the information required by subsection (a)(1) of this Section. If the generator does not supply the information and the owner or operator chooses to accept a hazardous waste, the owner or operator is responsible for obtaining the information required to comply with this Section.

- 3) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:
  - A) When the owner or operator is notified or has reason to believe that the process or operation generating the hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), has changed; and
  - B) For off-site facilities, when the results of the inspection required in subsection (a)(4) of this Section indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.
- 4) The owner or operator of an off-site facility shall inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

A violation of 35 Ill. Adm. Code 725.113(a) is alleged for the following reason: A required waste analysis was not conducted before waste was disposed of at this site.

12. Pursuant to 35 Ill. Adm. Code 725.113(b), the owner or operator shall develop and follow a written waste analysis plan that describes the procedures that the owner or operator will carry out to comply with subsection (a) of this Section. The owner or operator shall keep this plan at the facility. At a minimum, the plan must specify:
  - 1) The parameters for which each hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these

parameters will provide sufficient information on the waste's properties to comply with subsection (a) of this Section.

- 2) The test methods that will be used to test for these parameters.
- 3) The sampling method that will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:
  - A) One of the sampling methods described in 35 Ill. Adm. Code 721.Appendix A, or
  - B) An equivalent sampling method.

BOARD NOTE: See 35 Ill. Adm. Code 720.120(c) for related discussion.

- 4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.
- 5) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply.
- 6) Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods, as specified in Sections 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934(d), 725.963(d), and 725.984, and 35 Ill. Adm. Code 728.107.
- 7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for:
  - A) The sampling of impoundment contents;
  - B) The analysis of test data; and
  - C) The annual removal of residues that are not delisted under 35 Ill. Adm. Code 720.122 or that exhibit a characteristic of hazardous waste and either:
    - i) Do not meet the applicable treatment standards of 35 Ill. Adm. Code 728.Subpart D, or
    - ii) Where no treatment standards have been established: Such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139.

- 8) For owners and operators seeking an exemption to the air emission standards of 724.Subpart CC in accordance with Section 725.983:
- A) If direct measurement is used for the waste determination, the procedures and schedules for waste sampling and analysis, and the analysis of test data to verify the exemption.
  - B) If knowledge of the waste is used for the waste determination, any information prepared by the facility owner or operator, or by the generator of the waste if the waste is received from off-site, that is used as the basis for knowledge of the waste.

A violation of 35 Ill. Adm. Code 725.113(b) is alleged for the following reason:  
**The facility does not have a waste analysis plan.**

12. Pursuant to 35 Ill. Adm. Code 725.115(a), the owner or operator shall inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing—or may lead to—the conditions listed below. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.
- 1) Release of hazardous waste constituents to the environment, or
  - 2) A threat to human health.

A violation of 35 Ill. Adm. Code 725.115(a) is alleged for the following reason:  
**Inspections were not conducted to prevent the release of waste constituents into the environment.**

13. Pursuant to 35 Ill. Adm. Code 725.116(a),
- 1) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The owner or operator must ensure that this program includes all the elements described in the document required under paragraph (d)(3) of this section.
  - 2) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.
  - 3) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by

familiarizing them with emergency procedures, emergency equipment and emergency systems, including where applicable:

- A) Procedures for using, inspecting, repairing and replacing facility emergency and monitoring equipment;
  - B) Key parameters for automatic waste feed cut-off systems;
  - C) Communications or alarm systems;
  - D) Response to fires or explosions;
  - E) Response to groundwater contamination incidents; and
- F) Shutdown of operations.

A violation of 35 Ill. Adm. Code 725.116(a) is alleged for the following reason:  
**The facility has not conducted employee training, as required.**

14. Pursuant to 35 Ill. Adm. Code 725.117(a), the owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction, including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

A violation of 35 Ill. Adm. Code 725.117(a) is alleged for the following reason:  
**The owner did not take precautions to prevent accidental ignition of wastes. Drums of ignitable wastes were crushed and their contents allowed to leak.**

15. Pursuant to 35 Ill. Adm. Code 725.117(b), where specifically required by other Sections of this Part, the treatment, storage, or disposal of ignitable or reactive waste and the mixture or commingling of incompatible waste or incompatible wastes and materials, must be conducted so that it does not:
- 1) Generate extreme heat or pressure, fire or explosion, or violent reaction;
  - 2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;
  - 3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

- 4) Damage the structural integrity of the device or facility containing the waste; or
- 5) Through other like means, threaten human health or the environment.

A violation of 35 Ill. Adm. Code 725.117(b) is alleged for the following reason: **Disposal of ignitable hazardous wastes was conducted in manner that (3) produced flammable fumes, (4) Damaged the structural integrity of the device containing the waste and (5) threatened human health and the environment.**

16. Pursuant to 35 Ill. Adm. Code 725.131, facilities must be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

A violation of 35 Ill. Adm. Code 725.131 is alleged for the following reason: **The facility was not being operated in a manner that minimized the possibility of a fire or release of hazardous waste constituents into the environment.**

17. Pursuant to 35 Ill. Adm. Code 725.137, arrangements with local authorities
  - a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:
    - 1) Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes;
    - 2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department and agreements with any others to provide support to the primary emergency authority;
    - 3) Agreements with State emergency response teams, emergency response contractors and equipment suppliers; and
    - 4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or

illnesses which could result from fires, explosions or releases at the facility.

- b) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

A violation of 35 Ill. Adm. Code 725.137 is alleged for the following reason: **The owner has not made any arrangements with local authorities.**

- 18. Pursuant to 35 Ill. Adm. Code 725.151(a), each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water.

A violation of 35 Ill. Adm. Code 725.151(a) is alleged for the following reason: **The facility does not have a RCRA contingency plan.**

- 19. Pursuant to 35 Ill. Adm. Code 725.151(b), the provisions of the plan must be carried out immediately whenever there is a fire, explosion or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

A violation of 35 Ill. Adm. Code 725.151(b) is alleged for the following reason: **The facility did not have a plan to handle the release of hazardous waste constituents into the environment.**

- 20. Pursuant to 35 Ill. Adm. Code 725.152(a), the contingency plan must describe the actions facility personnel must take to comply with Sections 725.151 and 725.156 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

A violation of 35 Ill. Adm. Code 725.152(a) is alleged for the following reason: **The facility does not have a contingency plan.**

- 21. Pursuant to 35 Ill. Adm. Code 725.153, a copy of the contingency plan and all revisions to the plan must be:

- a) Maintained at the facility; and
- b) Submitted to all local police departments, fire departments, hospitals and state and local emergency response teams that may be called upon to provide emergency services.

A violation of 35 Ill. Adm. Code 725.153 is alleged for the following reason:  
The facility does not have a contingency plan.

22. Pursuant to 35 Ill. Adm. Code 725.173, operating record,
- a) The owner or operator shall keep a written operating record at the facility.
  - b) The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility.
    - 1) A description and the quantity of each hazardous waste received and the method or methods and date or dates of its treatment, storage, or disposal at the facility as required by Section 725.Appendix A;
    - 2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities this information must include cross-references to specific manifest document numbers if the waste was accompanied by a manifest;  
  
BOARD NOTE: See Sections 725.219, 725.379, and 725.409 for related requirements.
    - 3) Records and results of waste analysis, waste determinations, and trial tests performed as specified in Sections 725.113, 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, and 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;
    - 4) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 725.156(j);
    - 5) Records and results of inspections as required by Sections 725.115(d) (except these data need be kept only three years);
    - 6) Monitoring, testing, or analytical data where required by Subpart F of this Part or Sections 725.119, 725.190, 725.194, 725.291, 725.293, 725.295, 725.322, 725.323, 725.326, 725.355, 725.359, 725.360, 725.376, 725.378, 725.380(d)(1), 725.402 through 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and 725.1083 through 725.990;



BOARD NOTE: As required by Section 725.194, monitoring data at disposal facilities must be kept throughout the post-closure period.

- 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under Section 725.244;
- 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill. Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106, or a certification under 35 Ill. Adm. Code 728.108 and the applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a);
- 9) For an off-site treatment facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 10) For an on-site treatment facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;
- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;
- 13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and
- 14) For an on-site storage facility, the information contained in the notice (except the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108.

A violation of 35 Ill. Adm. Code 725.173 is alleged for the following reason: **The facility does not have a RCRA operating plan.**

23. Pursuant to 35 Ill. Adm. Code 725.175, the owner and operator shall prepare and submit a single copy of an annual report to the Agency by March 1 of each year. The report form and instructions supplied by the Agency must be used for this report. The annual report must cover facility activities during the previous calendar year and must include the following information:
- a) The USEPA identification number (Section 725.111), name and address of the facility;
  - b) The calendar year covered by the report;
  - c) For off-site facilities, the USEPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;
  - d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities this information must be listed by USEPA identification number of each generator;
  - e) The method of treatment, storage or disposal for each hazardous waste;
  - f) Monitoring data under Section 725.194(a)(2)(B) and (C) and (b)(2) where required;
  - g) The most recent closure cost estimate under Section 725.242 and for disposal facilities the most recent post-closure cost estimate under Section 725.244;
  - h) For generators which treat, store or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated;
  - i) For generators which treat, store or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years, to the extent such information is available for years prior to 1984; and
  - j) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

A violation of 35 Ill. Adm. Code 725.175 is alleged for the following reason: **The facility did not submit an annual report by March 2004 for its operations during 2003.**

24. Pursuant to 35 Ill. Adm. Code 725.212(a), within six months after the effective date of the rule that first subjects a facility to provisions of this Section, the owner or operator of a hazardous waste management facility shall have a written closure plan. Until final closure is completed and certified in accordance with Section 725.215, a copy of the most current plan must be furnished to the Agency upon request including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections on the day of inspection to any officer, employee, or representative of the Agency.

A violation of 35 Ill. Adm. Code 725.212(a) is alleged for the following reason:  
**The facility does not have a written closure plan.**

25. Pursuant to 35 Ill. Adm. Code 725.218(a), the owner or operator of a hazardous waste disposal unit shall have a written post-closure care plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure shall prepare a post-closure care plan and submit it to the Agency within 90 days after the date that the owner or operator or Agency determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of Sections 725.217 through 725.220.

A violation of 35 Ill. Adm. Code 725.218(a) is alleged for the following reason:  
**The facility does not have a written post-closure plan.**

26. Pursuant to 35 Ill. Adm. Code 725.242(a), the owner or operator shall have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in Sections 725.211 through 725.215 and applicable closure requirements of Sections 725.278, 725.297, 725.328, 725.358, 725.380, 725.410, 725.451, 725.481, 725.504, and 725.1102.

- 1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 725.212(b)); and
- 2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).) The owner or operator may use costs for on-site disposal if the owner or operator demonstrates that on-site disposal capacity will exist at all times over the life of the facility.
- 3) The closure cost estimate must not incorporate any salvage value that may be realized by the sale of hazardous wastes, or non-hazardous wastes, if

applicable under Section 725.213(d), facility structures or equipment, land or other facility assets at the time of partial or final closure.

- 4) The owner or operator shall not incorporate a zero cost for hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), which may have economic value.

A violation of 35 Ill. Adm. Code 725.242(a) is alleged for the following reason:  
**The facility does not have a written cost estimate for closure activities.**

27. Pursuant to 35 Ill. Adm. Code 725.244(a), the owner or operator of a hazardous waste disposal unit shall have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in Section 725.217 through 725.220, 725.328, 725.358, 725.380 and 725.410.

- 1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of "parent corporation" in Section 725.241(d).)
- 2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under Section 725.217.

A violation of 35 Ill. Adm. Code 725.244(a) is alleged for the following reason:  
**The facility does not have a written cost estimate for post-closure activities.**

28. Pursuant to Section 812.101(a), all persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(d)) [415 ILCS 5/21(d)] shall submit to the Agency an application for a permit to develop and operate a landfill. The applications must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817.

A violation of 35 Ill. Adm. Code 812.101(a) is alleged for the following reason: wastes were disposed at this site without a permit to operate a landfill.

29. Pursuant to Section 808.121(c), no person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:

- 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or
- 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).

A violation of 35 Ill. Adm. Code 808.121(c) is alleged for the following reason: **Special wastes in the form of used oil was disposed of without a permit**