





## VIOLATIONS

Based upon direct observations made by William Zierath during the course of his August 28, 2002 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) (2000).
  
- (2) That Respondent caused or allowed the open dumping of waste in a manner resulting in open burning, a violation of Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2000).
  
- (3) That Respondent caused or allowed the open dumping of waste in a manner resulting in deposition of general construction or demolition debris or clean construction or demolition debris, a violation of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2000).

## CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2000), 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 Four Thousand Five Hundred Dollars (\$4,500.00). 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 December 20, 2002, 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 (2000), 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) (2000), 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 (2000). 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 wcc*  
Illinois Environmental Protection Agency

Date: 10/02/02

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



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT


IN THE MATTER OF: )  
)  
Illinois Environmental )  
Protection Agency )  
)  
vs. )  
)  
Bobby Keller )  
)  
Respondent. )

AC 03-10

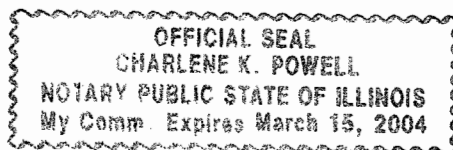
IEPA DOCKET NO.

Affiant, William E. Zierath, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Division of Land Pollution Control of the Illinois Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On August 28, 2002 between 3:20 PM and 3:35 PM, Affiant conducted an inspection of a disposal site in Macoupin County, Illinois, known as Mt. Olive/Keller, Illinois Environmental Protection Agency site number LPC# 1178135006.
3. Affiant inspected said Mt. Olive/Keller disposal site by an on-site inspection which included walking and photographing the site.
4. As a result of the activities referred to in paragraph 3 above, Affiant completed the Inspection Report attached hereto and 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 said Mt. Olive/Keller disposal site.

  
William E. Zierath

Subscribed and Sworn To before me  
This 5<sup>th</sup> day of September, 2002  
Charlene K. Powell



**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**  
**Open Dump Inspection Checklist**

County: Macoupin      LPC#: 1178135006      Region: 5 - Springfield  
 Location/Site Name: Mount Olive/Keller  
 Date: 08/28/2002    Time: From 15:20    To 15:35    Previous Inspection Date: 08/09/2002  
 Inspector(s): William Zierath      Weather: Sunny, 85F  
 No. of Photos Taken: # 2    Est. Amt. of Waste: 30 yds<sup>3</sup>    Samples Taken: Yes # \_\_\_\_\_ No   
 Interviewed: \_\_\_\_\_      Complaint #: C-02-113-C

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

Bobby Keller  
 3931 Route 66  
 MOUNT OLIVE, IL 62069  
 217-999-2822

RECEIVED  
 SEP 10 2002  
 IEPA-DLPC


	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input checked="" type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input checked="" 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	<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 checked="" type="checkbox"/>
	(4)	Deposition of Waste in Standing or Flowing Waters	<input type="checkbox"/>
	(5)	Proliferation of Disease Vectors	<input type="checkbox"/>
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	<input type="checkbox"/>



LPC #

Inspection Date:

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	<input checked="" 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

- [Illinois] Environmental Protection Act: 415 ILCS 5/4.
- Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
- 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.
- 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.
- 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).
- Items marked with an "NE" were not evaluated at the time of this inspection.



# ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

4500 SOUTH SIXTH STREET ROAD, SPRINGFIELD, ILLINOIS 62706

RENEE CIPRIANO, DIRECTOR

217-786-6892 • FAX 217-786-6357

## MEMORANDUM

**Date:** August 28, 2002

**To:** BOL File

**From:** William E. Zierath, BOL/FOS - Springfield Region

**Subject:** LPC# 1178135006 – Macoupin County  
Mt. Olive/Keller  
Complaint C-02-113-C  
FOS File

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EPA-604

A complaint follow up investigation was conducted on August 28, 2002, at this residential property southwest of Mt. Olive. No one else was at the site during this investigation. The weather was sunny and 85°F.

Previous investigations were conducted at this site on July 16, 2002 and August 9, 2002. These previous investigations revealed piles of demolition waste at this site.

During the morning of August 28, 2002, an inspector in the BOL/FOS – Collinsville Regional Office, called Jan Mier, BOL/FOS – Springfield Regional Office, and said that Mr. Keller was burning the demolition waste. An anonymous complainant also called over the noon hour on that day to inquire about whether we had actually been told that this waste was on fire.

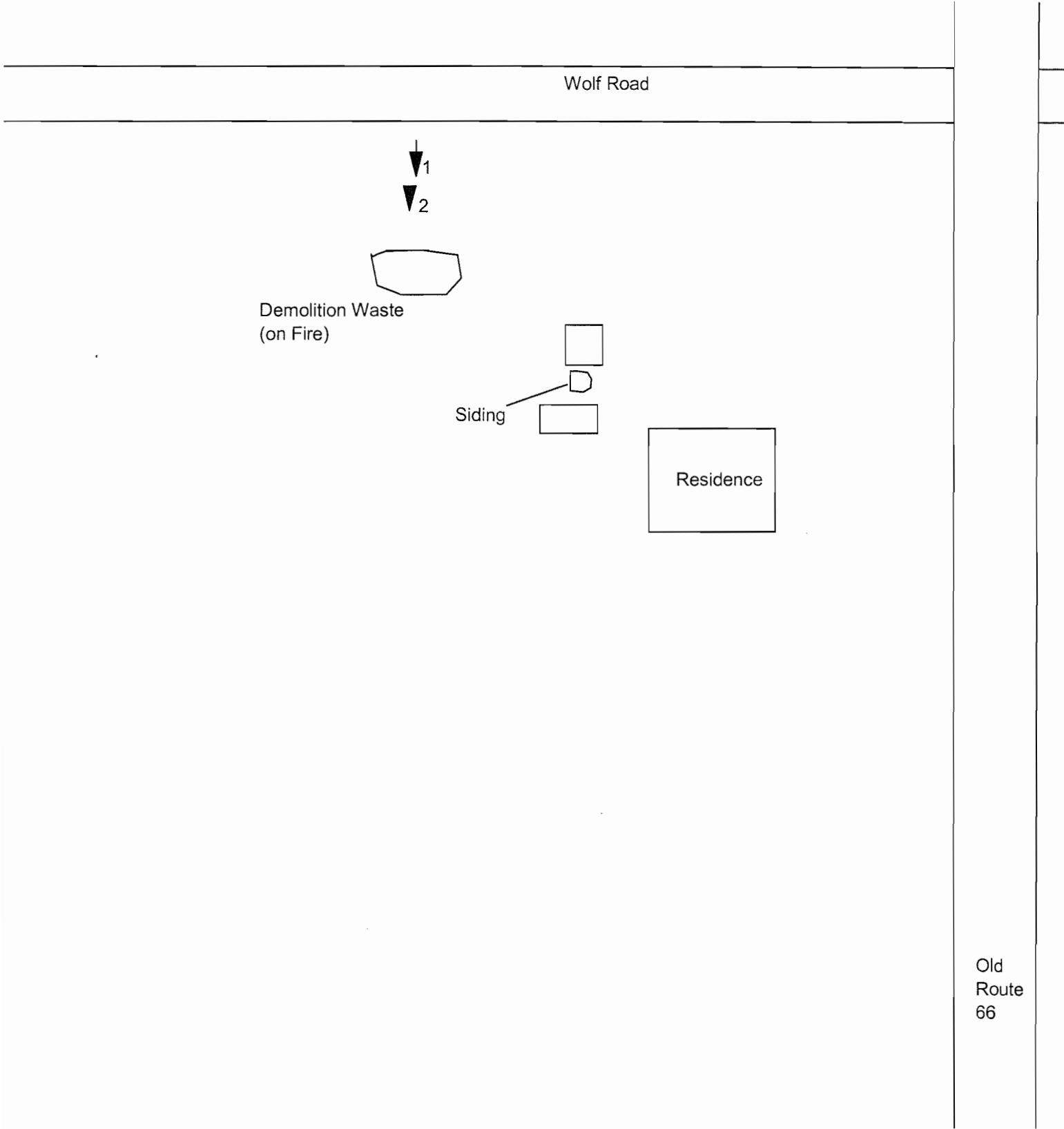
I arrived at the site at approximately 2:25 PM. The previously observed pile of demolition waste was actively burning. Flames and a large amount of smoke were observed. The demolition waste pile is shown in photographs 1178135006~08282002-001 and 1178135006~08282002-002. Wastes still distinguishable in the burning pile included shingles, siding and wood.

I drove to the residence at the site and knocked repeatedly. There was no answer at the door.

cc: BOL/FOS – Springfield Regional File



Not to Scale  
▲ = Direction of Photograph



LPC # 1178135006 – Macoupin County  
Mt. Olive/Keller  
FOS File

**DIGITAL PHOTOGRAPH PHOTOCOPIES**

**DATE:** August 28, 2002  
**TIME:** 2:25 PM  
**DIRECTION:** South  
**PHOTO by:** William Zierath  
**PHOTO FILE NAME:**  
1178135006~08282002-001  
**COMMENTS:**



**DATE:** August 28, 2002  
**TIME:** 2:25 PM  
**DIRECTION:** South  
**PHOTO by:** William Zierath  
**PHOTO FILE NAME:**  
1178135006~08282002-002  
**COMMENTS:**




**PROOF OF SERVICE**

I hereby certify that I did on the 2nd day of October, 2002, 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: Bobby Keller  
3931 Route 66  
Mount Olive, Illinois 62069

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by Certified Mail 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



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Christopher P. Perzan  
Special Assistant Attorney General

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



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

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

RECEIVED  
CLERK'S OFFICE

OCT 04 2002

STATE OF ILLINOIS  
Pollution Control Board

October 2, 2002

AC 03-10

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

Re: Illinois Environmental Protection Agency v. Bobby Keller  
IEPA File No. 432-02-AC; 1178135006—Macoupin County

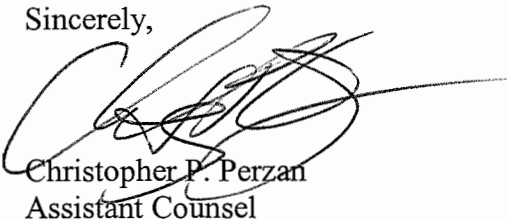
Dear Clerk Gunn:

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,



Christopher P. Perzan  
Assistant Counsel

Enclosures

GEORGE H. RYAN, GOVERNOR