



# 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

DOUGLAS P. SCOTT, DIRECTOR

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

August 12, 2010

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

RECEIVED  
CLERK'S OFFICE  
AUG 19 2010  
STATE OF ILLINOIS  
Pollution Control Board

AC 11-1  
ORIGINAL

Re: Illinois Environmental Protection Agency v. Marion Metal & Roofing and C & T Recycling  
IEPA File No.232-10-AC: 1990555206—Williamson 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

RECEIVED  
CLERK'S OFFICE  
AUG 19 2010  
STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
MARION METAL & ROOFING AND C & T )  
RECYCLING, )  
 )  
 )  
Respondents. )

AC 11-7  
(IEPA No.232-09-AC)

ORIGINAL

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 (2008).

FACTS

1. That Marion Metal & Roofing is the current owner and C & T Recycling is the current operator ("Respondents") of a facility located at 3302 Water Tower Road, Marion, Williamson County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Marion/Marion Metal & Roofing-C&T Recycling.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No.1990555206.
3. That Respondents have owned and/or operated said facility at all times pertinent hereto.
4. That on July 1, 2010, Robert Mileur of the Illinois Environmental Protection Agency's ("Illinois EPA") Marion 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 8-12-10, Illinois EPA sent this Administrative Citation via Certified Mail No. 7007 0220 0000 0152 3410 *Marion Metal & Roofing*  
7007 0220 0000 0152 3427 *C&T Recycling*

#### VIOLATIONS

Based upon direct observations made by Robert Mileur during the course of his July 1, 2010 inspection of the above-named facility, the Illinois Environmental Protection Agency has determined that Respondents have violated the Illinois Environmental Protection Act (hereinafter, the "Act") as follows:

- (1) That Respondents 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) (2008).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2008), Respondents are 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 Respondents elect not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than September 15, 2010, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondents elect 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 (2008), and if the Illinois Pollution Control Board issues a finding of violation as alleged herein, after an adjudicatory hearing, Respondents 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) (2008), if Respondents fail to petition or elect 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, Respondents 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 Respondents 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 Respondents in Circuit Court to collect said penalty and/or hearing costs, plus any interest accrued.

PROCEDURE FOR CONTESTING THIS  
ADMINISTRATIVE CITATION

Respondents have the right to contest this Administrative Citation pursuant to and in accordance with Section 31.1 of the Act, 415 ILCS 5/31/1 (2008). If Respondents elect to contest this Administrative Citation, then Respondents 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 Respondents.

 Douglas P. Scott *2150P*      Date: 8/9/2010  
Douglas P. Scott, 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

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CLERK'S OFFICE

AUG 19 2010

STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
MARION METAL & ROOFING AND C & T )  
RECYCLING, )  
 )  
 )  
Respondents. )

AC 11-7  
(IEPA No. 232-10-AC)

ORIGINAL

FACILITY: Marion/Marion Metal & Roofing-C&T Recycling  
SITE CODE NO.: 1990555206  
COUNTY: Williamson  
CIVIL PENALTY: \$1,500.00  
DATE OF INSPECTION: July 1, 2010

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.



RECEIVED  
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD AUG 19 2010

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY )  
)  
Complainant, )  
)  
)  
v. )  
)  
C & T Recycling, )  
Marion Metal & Roofing )  
)  
Respondent. )

IEPA DOCKET NO.

ORIGINAL

AFFIDAVIT

Affiant, Robert Mileur, 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 July 1, 2010, between 9:00 a.m. and 9:30 a.m., Affiant conducted an inspection of a disposal site operated by Thomas E. Porter/Todd & Tabitha Booten, located in Williamson County, Illinois, and known as Marion/Marion Metal & Roofing by the Illinois Environmental Protection Agency. Said site has been assigned site code number 1990555206 by the Agency.
3. Affiant inspected said Marion/Marion Metal & Roofing site by an on-site inspection which included walking and photographing the site.



4. As a result of the material actions 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 said Marion/Marion Metal & Roofing.

*Gladys A. Nelson*

Subscribed and Sworn to before me  
this 20<sup>th</sup> day of July, 2010

*Ronald E. Morse*  
Notary Public

RAM:jk/43451/07-14-10



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

CLERK'S OFFICE  
 AUG 19 2010  
 STATE OF ILLINOIS  
 Pollution Control Board

County: Williamson LPC#: 1990555206 Region: Central  
 Location/Site Name: Marion/Marion Metal & Roofing  
 Date: 07/01/2010 Time: From 9:00am To 9:30am Previous Inspection Date: 01/30/2008  
 Inspector(s): Robert Mileur & Garrison Gross Weather: Sunny 90 degrees w/ south wind  
 No. of Photos Taken: # 14 Est. Amt. of Waste: 60 yds<sup>3</sup> Samples Taken: Yes #        No   
 Interviewed: Bud Littleton Complaint #:         
 Latitude: 37.74125 Longitude: -88.98562 Collection Point Description: Site Entrance -  
 (Example Lat. 41.26493 Long.: -89.38294) Collection Method: GPS -

**Marion Metal & Roofing**  
 Attn: Thomas E. Porter  
 13386 Bandyville Road  
 Herrin, IL 62948

**C & T Recycling**  
 Attn: Todd & Tabitha Booten  
 3302 Water Tower Road  
 Marion, IL 62959

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

**ORIGINAL**

	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	<input type="checkbox"/>
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	<input type="checkbox"/>
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	<input type="checkbox"/>
4.	12(d)	CREATE A WATER POLLUTION HAZARD	<input type="checkbox"/>
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	<input checked="" type="checkbox"/>
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE-DISPOSAL OPERATION:	
	(1)	Without a Permit	<input 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 # 1990555206

Inspection Date: 07/01/2010

	(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)	<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 checked="" 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"/>

**Informational Notes**

1. [Illinois] Environmental Protection Act: 415 ILCS 5/4.
2. Illinois Pollution Control Board: 35 Ill. Adm. Code, Subtitle G.
3. Statutory and regulatory references herein are provided for convenience only and should not be construed as legal conclusions of the Agency or as limiting the Agency's statutory or regulatory powers. Requirements of some statutes and regulations cited are in summary format. Full text of requirements can be found in references listed in 1. and 2. above.
4. The provisions of subsection (p) of Section 21 of the [Illinois] Environmental Protection Act shall be enforceable either by administrative citation under Section 31.1 of the Act or by complaint under Section 31 of the Act.
5. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the [Illinois] Environmental Protection Act: 415 ILCS 5/4(c) and (d).
6. Items marked with an "NE" were not evaluated at the time of this inspection.



*State of Illinois*  
ENVIRONMENTAL PROTECTION AGENCY  
INSPECTION NARRATIVE

**LPC# 1990555206 – Williamson County**  
**Marion/Marion Metal & Roofing**  
**Inspector(s): Robert Mileur and Garrison Gross**  
**July 1, 2010**  
**FOS File**

**Open Dumping Inspection Report Narrative**

Robert Mileur and Garrison Gross representing the Agency inspected this site on July 1, 2010. This inspection was conducted in accordance with Sections 4(c) and 4(d) of the Illinois Environmental Protection Act: 415 ILCS 5/4(c) & 4(d). The purpose of this inspection was to determine compliance with the Illinois Environmental Protection Act and 35 Ill. Adm. Code. Subtitle G: Waste Disposal Rules and Regulations of the Illinois Pollution Control Board.

The inspection was conducted as the result of a complaint to this office and consisted of meeting with a worker on site, walking the area, and taking photographs.

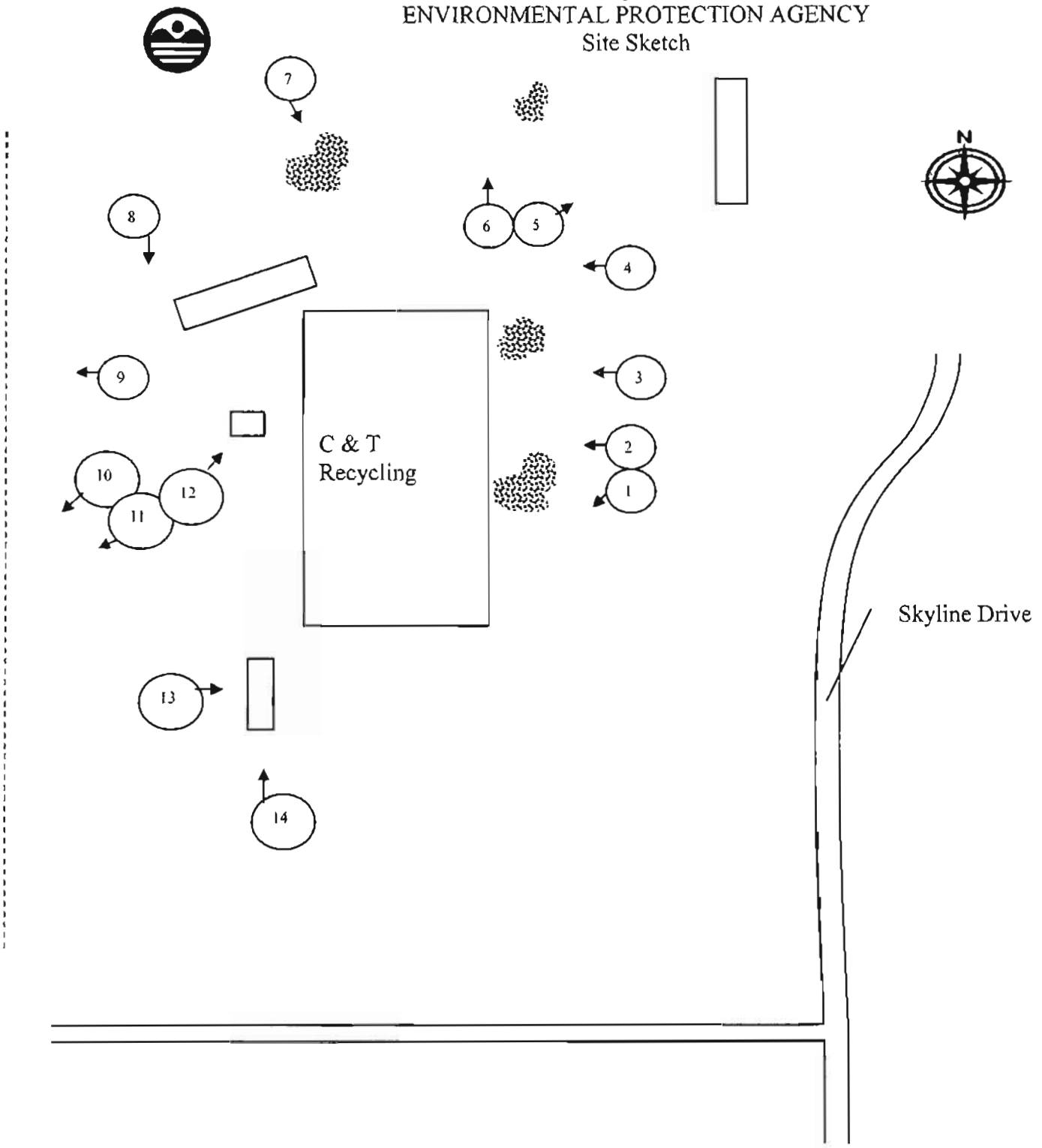
**Inspection Findings**

We arrived at C&T Recycling at around 9:00am. We were supposed to meet with one of the owners, Todd Booten, but he was retrieving a stolen vehicle at the time so he could not be there. We instead met with one of the workers at the site who identified himself as Bud Littleton. When we arrived at the site you could see lots of litter and debris surrounding the recycling building. On the front of the building or east side, you could see cardboard pouring out of the unload bay. The ground was covered with cardboard, pallets, and miscellaneous litter from the recycling operation. When we asked Mr. Littleton about the cardboard he stated that they had just received a load of cardboard and what was in the unload area will be baled up that day. When discussing waste scattered around the site Mr. Littleton said that the facility does have a waste dumpster that is picked up once per week. We mentioned to him that once per week may not be enough considering the amount of waste scattered around the site. He then stated that some of the debris may have been caused by a utility company working on a transformer at the site. There has also been mention of a lack of a fence around the recycling facility that has allowed people to dump material after hours. These excuses all appear to be an attempt by owners and workers at the recycling facility to avoid doing some basic housekeeping. Litter was scattered all over the location with some blowing off-site to neighboring properties. The roll-off dumpster they use to recycle plastic was full and material had spilled over onto the ground. On the north side of the recycling building we observed plastic material stored in totes that appeared to have been sitting there for some time judging by weed growth and condition of the material. The site had several debris piles that look like they have been shoved up into a pile and left with

no intention of clean up. Mr. Littleton said he was only a worker and decisions need to be made by the owners of the recycling business.

We concluded our inspection and left the site at around 9:30am.

State of Illinois  
ENVIRONMENTAL PROTECTION AGENCY  
Site Sketch



\*Not to Scale





## DIGITAL PHOTOGRAPHS



Date: 7/1/10  
Time: 9:00am  
Direction: SW  
Photo by: Robert Mileur  
Exposure #: 001  
Comments: East side of C  
& T recycling. Lot s of  
litter around site.



Date: 7/1/10  
Time: 9:00am  
Direction: W  
Photo by: Robert Mileur  
Exposure #: 002  
Comments: East facing  
door is bulging out from  
material in the building.

File Names: 1990555206~07012010-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 7/1/10  
**Time:** 9:01am  
**Direction:** W  
**Photo by:** Robert Mileur  
**Exposure #:** 003  
**Comments:** North side of building and unload bay for incoming cardboard.



**Date:** 7/1/10  
**Time:** 9:02am  
**Direction:** W  
**Photo by:** Robert Mileur  
**Exposure #:** 004  
**Comments:** North side of building looking west. Lots of scattered debris and waste piles.

**File Names:** 1990555206~07012010-[Exp. #].jpg





**DIGITAL PHOTOGRAPHS**



**Date:** 7/1/10  
**Time:** 9:02am  
**Direction:** NE  
**Photo by:** Robert Mileur  
**Exposure #:** 005  
**Comments:** Wooded pallets stacked on north side of lot.



**Date:** 7/1/10  
**Time:** 9:03am  
**Direction:** N  
**Photo by:** Robert Mileur  
**Exposure #:** 006  
**Comments:**

**File Names:** 1990555206~07012010-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 7/1/10  
**Time:** 9:05am  
**Direction:** SE  
**Photo by:** Robert Mileur  
**Exposure #:** 007  
**Comments:** Material found scattered on NW side of recycling building.



**Date:** 7/1/10  
**Time:** 9:05am  
**Direction:** S  
**Photo by:** Robert Mileur  
**Exposure #:** 08  
**Comments:** Pallets on west side of building.

**File Names:** 1990555206~07012010-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 7/1/10  
**Time:** 9:06am  
**Direction:** W  
**Photo by:** Robert Mileur  
**Exposure #:** 009  
**Comments:** Litter found scattered between recycler and adjacent property.



**Date:** 7/1/10  
**Time:** 9:07am  
**Direction:** SW  
**Photo by:** Robert Mileur  
**Exposure #:** 010  
**Comments:** More litter scattered on site.

**File Names:** 1990555206~07012010-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 7/1/10  
**Time:** 9:08am  
**Direction:** SW  
**Photo by:** Robert Mileur  
**Exposure #:** 011  
**Comments:** Litter SW of recycling building.



**Date:** 7/1/10  
**Time:** 9:10am  
**Direction:** NE  
**Photo by:** Robert Mileur  
**Exposure #:** 012  
**Comments:** Roll off overflowing on west side of building.

**File Names:** 1990555206-07012010-[Exp. #].jpg





## DIGITAL PHOTOGRAPHS



**Date:** 7/1/10  
**Time:** 9:11am  
**Direction:** E  
**Photo by:** Robert Mileur  
**Exposure #:** 013  
**Comments:** Roll off used for plastic recycling overflowing with debris on the ground.



**Date:** 7/1/10  
**Time:** 9:11am  
**Direction:** N  
**Photo by:** Robert Mileur  
**Exposure #:** 014  
**Comments:** Plastic recycling dumpster is running over with debris.

**File Names:** 1990555206-07012010-[Exp. #].jpg

**PROOF OF SERVICE**

I hereby certify that I did on the 12th day of August 2010, 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: Marion Metal & Roofing  
Attn: Thomas E. Porter  
13386 Brandyville Road  
Herrin, IL 62948

C & T Recycling  
Attn: Todd & Tabitha Boster  
3302 Water Tower Road  
Marion, IL 62959

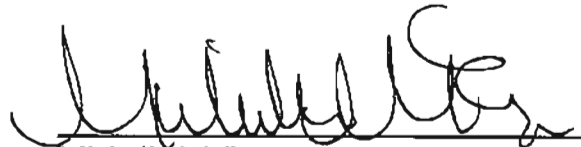
**RECEIVED**  
**CLERK'S OFFICE**  
**AUG 19 2010**

**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

**ORIGINAL**



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