

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	
<b>ALTIVITY PACKAGING, LLC,</b>	)	
<b>a Delaware limited liability company,</b>	)	
<b>INTRA-PLANT MAINTENANCE CORPORATION,</b>	)	
<b>an Illinois corporation,</b>	)	
<b>IRONHUSTLER EXCAVATING, INC.,</b>	)	
<b>an Illinois corporation, and</b>	)	
<b>RON BRIGHT, d/b/a Quarter Construction,</b>	)	
	)	
<b>Respondents.</b>	)	

**NOTICE OF ELECTRONIC FILING**

To: See Attached Service List

PLEASE TAKE NOTICE that on July 26, 2011, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, c/o John T. Therriault, Assistant Clerk, James R. Thompson Center, 100 W. Randolph St., Ste. 11-500, Chicago, IL 60601 a COMPLAINT and ENTRY OF APPEARANCE, copies of which are attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2010), to correct the pollution alleged in the Complaint filed in this case.

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: 

RAYMOND J. CALLERY  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 26, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that I did on July 26, 2011, cause to be served by Certified Mail, Return Receipt Requested, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT and ENTRY OF APPEARANCE upon the persons listed on the Service List.

A handwritten signature in black ink, appearing to read "Raymond J. Callery", written over a horizontal line.

RAYMOND J. CALLERY  
Assistant Attorney General

This filing is submitted on recycled paper.

**SERVICE LIST**

Altivity Packaging, LLC  
c/o Illinois Corporation Service C, R.A.  
801 Adlai Stevenson Drive  
Springfield, IL 62703

Intra-Plant Maintenance Corporation  
c/o Gregory A. Mescher, R.A.  
108 S. Wood Street  
Washington, IL 61571

Ironhustler Excavating, Inc.  
c/o William H. Campbell, R.A.  
401 Main Street, Ste. 1600  
Peoria, IL 61602

Ron Bright  
d/b/a Quarter Construction  
10731 Levy Road  
Tremont, IL 61568

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB NO.
	)	
ALTIVITY PACKAGING, LLC,	)	
a Delaware limited liability company,	)	
INTRA-PLANT MAINTENANCE CORPORATION,	)	
an Illinois corporation,	)	
IRONHUSTLER EXCAVATING, INC.,	)	
an Illinois corporation, and	)	
RON BRIGHT, d/b/a Quarter Construction,	)	
	)	
Respondents.	)	

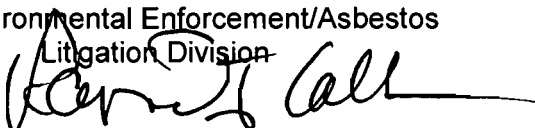
**ENTRY OF APPEARANCE**

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, RAYMOND J. CALLERY, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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:   
 \_\_\_\_\_  
 RAYMOND J. CALLERY  
 Environmental Bureau  
 Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: July 26,2011

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

<b>PEOPLE OF THE STATE OF ILLINOIS,</b>	)	
<b>ex rel. LISA MADIGAN, Attorney General</b>	)	
<b>of the State of Illinois,</b>	)	
	)	
<b>Complainant,</b>	)	
	)	
<b>v.</b>	)	<b>PCB NO.</b>
	)	
<b>ALTIVITY PACKAGING, LLC,</b>	)	
<b>a Delaware limited liability company,</b>	)	
<b>INTRA-PLANT MAINTENANCE</b>	)	
<b>CORPORATION, an Illinois corporation,</b>	)	
<b>IRONHUSTLER EXCAVATING, INC.,</b>	)	
<b>an Illinois corporation, and</b>	)	
<b>RON BRIGHT d/b/a QUARTER</b>	)	
<b>CONSTRUCTION,</b>	)	
	)	
<b>Respondents.</b>	)	

**COMPLAINT**

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondents, ALTIVITY PACKAGING, L.L.C., a Delaware limited liability company, INTRA-PLANT MAINTENANCE CORPORATION, an Illinois corporation, IRONHUSTLER EXCAVATING, INC., an Illinois corporation, and RON BRIGHT d/b/a QUARTER CONSTRUCTION, as follows:

**COUNT I**

**ALTIVITY PACKAGING, L.L.C**

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms

and provisions of Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010).

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2010), and which is charged, *inter alia*, with the duty of enforcing the Act.

3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2010), after providing the Respondents with notice and the opportunity for a meeting with the Illinois EPA.

4. Altivity Packaging, L.L.C. (“Altivity”) is a Delaware limited liability company.

5. Altivity operates a wastewater treatment plant located at 1525 South Second Street, Pekin, Illinois (“source site”).

6. On a date better known to the Respondents, construction of the wastewater treatment plant at the source site generated miscellaneous material, consisting of silt, sand, and gravel with cinders and brick fragments, that could not be used for the plant’s foundation.

7. On a date better known to the Respondents, Altivity contracted with Intra-Plant Maintenance Corporation for the construction of the wastewater treatment plant.

8. Intra-Plant Maintenance Corporation subcontracted the excavation and disposal of the miscellaneous material to Ironhustler Excavating, Inc.

9. Section 21 of the Act, 415 ILCS 5/21 (2010), provides in pertinent part, as follows:

No person shall:

(a) Cause or allow the open dumping of any waste.

\* \* \*

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

\* \* \*

10. Sections 3.305 and 3.535 of the Act, 415 ILCS 5/3.305 and 3.535 (2010), respectively provide the following definitions:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities

...

11. On January 24, 2008, the Illinois EPA conducted an inspection of a sand and gravel pit located at 10513 Levy Road in Hopedale, Tazewell County, Illinois (“disposal site”).

12. On or before January 24, 2008, the source site miscellaneous material had been transported to and disposed of at the disposal site.

13. On January 30, 2008, the Illinois EPA collected three soil samples, labeled X101, X102, and X103, from the miscellaneous material. The samples were collected and hand delivered under chain of custody to Prairie Analytical Systems, Inc. (“Prairie”).



14. On February 11, 2008, the Illinois EPA received the analytical results for the soil samples from Prairie.

15. The Illinois EPA compared RCRA Total Metals results for analytes detected in the soil samples to the TACO Tier 1 Remediation Objectives for Concentrations of Chemicals in Background Soils Within MSA's, 35 Ill. Adm. Code Part 742, Appendix A, Table G; pH Specific Soil Remediation Objectives for Inorganic and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route for Class I Groundwater, 35 Ill. Adm. Code Part 742, Appendix B, Table C; Residential Properties for Ingestion and Inhalation Routes, 35 Ill. Adm. Code Part 742, Appendix B, Table A; and the Industrial/Commercial Properties for Ingestion and Inhalation Routes including the Construction Worker Route Scenario, 35 Ill. Adm. Code Part 742, Appendix B, Table B.

16. Cadmium in soil samples X101, X102, and X103, exceeded the TACO Tier 1 Remediation Objectives for Concentrations of Chemicals in Background Soils Within MSA's. Lead in soil samples X102 and X103 exceeded the TACO Tier 1 Remediation Objectives for Concentrations of Chemicals in Background Soils Within MSA's. Mercury in soil sample X103 exceeded the TACO Tier 1 Remediation Objectives for Concentrations of Chemicals in Background Soils Within MSA's. Selenium in soil sample X103 exceeded the TACO Tier 1 Remediation Objectives for Concentrations of Chemicals in Background Soils Within MSA's.

17. Lead in soil samples X102 and X103 exceeded the TACO Tier 1 Remediation

Objectives for pH Specific Soil Remediation Objectives for Inorganic and Ionizing Organics for the Soil Component of the Groundwater Ingestion Route for Class I Groundwater.

18. The Illinois EPA compared the RCRA TCLP Metals results for analytes detected in the soil samples to TACO Tier 1 Remediation Objectives for the Soil Component of the Groundwater Ingestion Exposure Route for Class I Groundwater, 35 Ill. Adm. Code Part 742, Appendix A, Table A.

19. Cadmium in soil samples X101, X102, and X103, exceeded the TACO Tier 1 Remediation Objectives for the Soil Component of the Groundwater Ingestion Exposure Route for Class I Groundwater.

20. The TACO Tier 1 Remediation Objectives demonstrate that the miscellaneous material is therefore a waste as defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2010).

21. On August 24, 2010, the Illinois EPA re-inspected the disposal site. The source site miscellaneous material had been committed to grade but was still easily identifiable against the contrasting yellowish-orange materials native to the disposal site.

22. The Respondent Altivity has caused or allowed the open dumping of waste at the disposal site by hiring Intra-Plant Maintenance Corporation to dispose of the miscellaneous material at the disposal site, a site that is not permitted by the Illinois EPA as a sanitary landfill and does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

23. By causing or allowing the open dumping of waste, the Respondent Altivity has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

24. By disposing of waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent Altivity has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, ALTIVITY PACKAGING, LLC, a Delaware limited liability company:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding the Respondent has violated the Act and the regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act

And associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010) impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

**COUNT II**

**RON BRIGHT d/b/a QUARTER CONSTRUCTION**

1-21. Complainant realleges and incorporates herein by reference paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count II.

22. Ron Bright d/b/a Quarter Construction (“Bright”) is the operator of the disposal site.

23. The Respondent Bright has caused or allowed the open dumping of waste at the disposal site by accepting for disposal the source site miscellaneous material, at a site that is not permitted by the Illinois EPA as a sanitary landfill and does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

24. By causing or allowing the open dumping of waste, the Respondent Bright has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

25. By disposing of waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent Bright has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RON BRIGHT d/b/a QUARTER CONSTRUCTION:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding the Respondent has violated the Act and the regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act

And associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010) impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

**COUNT III**

**INTRA-PLANT MAINTENANCE CORPORATION**

1-21. Complainant realleges and incorporates herein by reference paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count III.

22. Intra-Plant Maintenance Corporation (“Intra-Plant”) is an Illinois corporation in good standing.

23. The Respondent Intra-Plant has caused or allowed the open dumping of waste at the disposal site by hiring Ironhustler Excavating, Inc., to dispose of the miscellaneous source site material at the disposal site, a site that is not permitted by the Illinois EPA as a sanitary landfill and does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

24. By causing or allowing the open dumping of waste, the Respondent Intra-Plant has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

25. By disposing of waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent Intra-Plant violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, INTRA-PLANT MAINTENANCE CORPORATION, an Illinois corporation:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding the Respondent has violated the Act and the regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010) impose a civil penalty of not more than the statutory maximum; and

E. Granting such other relief as the Board may deem appropriate.

**COUNT IV**

**IRONHUSTLER EXCAVATING, INC.**

1-21. Complainant realleges and incorporates herein by reference paragraphs 1 through

21 of Count I as paragraphs 1 through 21 of this Count IV.

22. Ironhustler Excavating, Inc. ("Ironhustler") is an Illinois corporation in good standing.

23. The Respondent Ironhustler has caused or allowed the open dumping of waste at the disposal site by transporting the miscellaneous source site material to the disposal site, a site that is not permitted by the Illinois EPA as a sanitary landfill and does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder.

24. By causing or allowing the open dumping of waste, the Respondent Ironhustler has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010).

25. By disposing of waste at a site that does not meet the requirements of the Act and of the regulations and the standards promulgated thereunder, the Respondent Ironhustler has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2010).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, IRONHUSTLER EXCAVATING, INC., an Illinois corporation:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding the Respondent has violated the Act and the regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act

and associated regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010) impose a civil penalty of not more than the statutory maximum; and

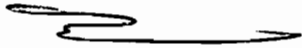
E. Granting such other relief as the Board may deem appropriate.

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: \_\_\_\_\_

  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel  
RAYMOND J. CALLERY  
500 South Second Street  
Springfield, Illinois 62706  
217/782-9031

Dated: July 26, 2011.