



# 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) 874-8026  
PAT QUINN, GOVERNOR  
LISA BONNETT, DIRECTOR

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JUL 08 2013

STATE OF ILLINOIS  
Pollution Control Board

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

July 5, 2013

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

AC 14-5



ORIGINAL

Re: Illinois Environmental Protection Agency v. Illinois Railway LLC  
IEPA File No.173-13-AC: 2010306653—Winnebago 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*  
Michelle M. Ryan  
Assistant Counsel  
by JLR

Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 08 2013

STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
ILLINOIS RAILWAY, LLC, )  
 )  
Respondent. )

AC 14-5  
(IEPA No.173-11-AC)

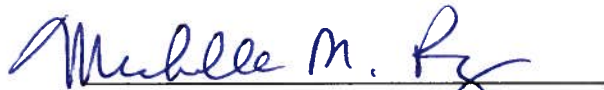
**NOTICE OF FILING**

To: Illinois Railway, LLC  
430 W. Madison Street  
Ottawa, IL 61350

Illinois Railway, LLC  
c/o CT Corporation System  
Suite 814  
Chicago, IL 60604

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled ADMINISTRATIVE CITATION, AFFIDAVIT, and OPEN DUMP INSPECTION CHECKLIST.

Respectfully submitted,

  
Michelle M. Ryan  
Assistant Counsel  
by JCR

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

Dated: July 5, 2013

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JUL 08 2013

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ADMINISTRATIVE CITATION

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. )  
 )  
ILLINOIS RAILWAY, LLC, )  
 )  
 )  
 )  
 )  
Respondent. )

AC 14-5  
(IEPA No. 173-13-AC)

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 (2010).

FACTS

1. That Illinois Railway, LLC is the current owner and operator ("Respondent") of a facility located underneath the Winnebago Street Bridge, Rockford, Winnebago County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Rockford/Illinois Railway LLC.
2. That said facility is designated with Site Code No. 2010306653.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on May 24, 2013, Donna Shehane of the Illinois Environmental Protection Agency's ("Illinois EPA") Rockford Regional Office inspected the above-described facility. A copy of her inspection report setting forth the results of said inspection is attached hereto and made a part hereof.

5. That on 7-5-13, Illinois EPA sent this Administrative Citation via Certified Mail No. 7012 0470 0001 2998 6031  
7012 0470 0001 2998 6024 CT.

#### VIOLATIONS

Based upon direct observations made by Donna Shehane during the course of her May 24, 2013 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) (2010).
  
- (2) That Respondent caused or allowed water to accumulate in used or waste tires, a violation of Section 55(k)(1) of the Act, 415 ILCS 55(k)(1) (2010).

#### CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2010), 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 Three Thousand Dollars (\$3,000.00). If Respondent elects not to petition the Illinois Pollution Control Board, the statutory civil penalty specified above shall be due and payable no later than August 15, 2013, unless otherwise provided by order of the Illinois Pollution Control Board.

If Respondent elects to contest this Administrative Citation by petitioning the Illinois Pollution Control Board in accordance with Section 31.1 of the Act, 415 ILCS 5/31.1 (2010), 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) (2010), 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 (2010). 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.

Lisa Bonnett *as SOP*

Date:

7/15/13

Lisa Bonnett, 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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STATE OF ILLINOIS  
Pollution Control Board

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
)  
Complainant, )  
)  
v. )  
)  
ILLINOIS RAILWAY, LLC, )  
)  
)  
)  
)  
)  
Respondent. )

AC 14-5  
(IEPA No. 173-13-AC)

FACILITY: Rockford/Illinois Railway, LLC  
SITE CODE NO.: 2010306653  
COUNTY: Winnebago  
CIVIL PENALTY: \$3,000.00  
DATE OF INSPECTION: May 24, 2013

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.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

AFFIDAVIT

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JUL 08 2013

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF: )  
)  
Illinois Railway, LLC, )  
)  
)  
Respondent )

IEPA DOCKET NO.

Affiant, Donna Shehane, 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 Environmental Protection Agency and has been so employed at all times pertinent hereto.
2. On May 24, 2013 between 9:45 am and 9:50 am, and again between 1:15 pm and 1:20 pm, Affiant conducted an inspection of the Illinois Railway, LLC property located in Winnebago County, Illinois. Said site has been assigned site code number BOL# 2010306653 by the Agency.
3. Affiant inspected said 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 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 facility.

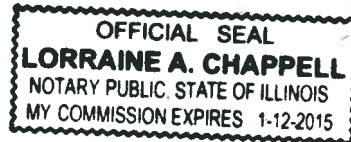
*Donna Shehane*

Donna Shehane EPS III

Subscribed and Sworn to Before Me  
this 12<sup>th</sup> day of June, 2013

*Lorraine A. Chappell*

Notary Public





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

County: Winnebago LPC#: 2010306653 Region: 1 - Rockford  
 Location/Site Name: Rockford/Illinois Railway, LLC  
 Date: 05/24/2013 Time: From 9:45 am To 9:50 am & 1:20 pm & 1:15 pm Previous Inspection Date: 08/29/2012  
 Inspector(s): Shehane Weather: 79 °F; south winds @ 20 mph; cloudy  
 No. of Photos Taken: # 3 Est. Amt. of Waste: 15 yds<sup>3</sup> Samples Taken: Yes #      No   
 Interviewed: \_\_\_\_\_ Complaint #: \_\_\_\_\_  
 Latitude: \_\_\_\_\_ Longitude: \_\_\_\_\_ Collection Point Description: -  
 (Example: Lat.: 41.26493 Long.: -89.38294) Collection Method: -

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

Illinois Railway, LLC  
 Attention: Henry Musgrave  
 430 W. Madison Street  
 Ottawa, IL 61350

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**JUL 0 8 2013**  
**STATE OF ILLINOIS**  
**Pollution Control Board**

	SECTION	DESCRIPTION	VIOL
<b>ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS</b>			
1.	<b>9(a)</b>	<b>CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS</b>	<input type="checkbox"/>
2.	<b>9(c)</b>	<b>CAUSE OR ALLOW OPEN BURNING</b>	<input type="checkbox"/>
3.	<b>12(a)</b>	<b>CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS</b>	<input type="checkbox"/>
4.	<b>12(d)</b>	<b>CREATE A WATER POLLUTION HAZARD</b>	<input type="checkbox"/>
5.	<b>21(a)</b>	<b>CAUSE OR ALLOW OPEN DUMPING</b>	<input checked="" type="checkbox"/>
6.	<b>21(d)</b>	<b>CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:</b>	
	(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.	<b>21(e)</b>	<b>DISPOSE, TREAT, STORE, OR ABANDON ANY WASTE, OR TRANSPORT ANY WASTE INTO THE STATE AT/TO SITES NOT MEETING REQUIREMENTS OF ACT</b>	<input checked="" type="checkbox"/>
8.	<b>21(p)</b>	<b>CAUSE OR ALLOW THE OPEN DUMPING OF ANY WASTE IN A MANNER WHICH RESULTS IN ANY OF THE FOLLOWING OCCURRENCES AT THE DUMP SITE:</b>	
	(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 # 2010306653

Inspection Date: 05/29/2013

	(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 checked="" 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)	<b>FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL</b>	<input type="checkbox"/>
11.	722.111	<b>HAZARDOUS WASTE DETERMINATION</b>	<input type="checkbox"/>
12.	808.121	<b>SPECIAL WASTE DETERMINATION</b>	<input type="checkbox"/>
13.	809.302(a)	<b>ACCEPTANCE OF SPECIAL WASTE FROM A WASTE TRANSPORTER WITHOUT A WASTE HAULING PERMIT, UNIFORM WASTE PROGRAM REGISTRATION AND PERMIT AND/OR MANIFEST</b>	<input type="checkbox"/>
<b>OTHER REQUIREMENTS</b>			
14.		<b>APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:</b>	<input type="checkbox"/>
15.	<b>OTHER:</b>		<input type="checkbox"/>
	55(k)(1)	No Person Shall: Cause or Allow Water Accumulation in used or waste tires	<input checked="" 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.

2010306653 – Winnebago County  
Rockford/Illinois Railway, LLC

NARRATIVE INSPECTION REPORT DOCUMENT

On May 24, 2013, I (Donna Shehane) conducted a follow-up inspection at a property located underneath the Winnebago Street Bridge in Rockford, Illinois. The purpose of this inspection was to determine the site's regulatory status and evaluate compliance with the Illinois Environmental Protection Act and Title 35 Illinois Administrative Code, Subtitle G. The weather at the time of this inspection was 79 °F with south winds at 20 mph and cloudy skies.

Several letters have previously been sent to Mr. Henry Musgrave of Illinois Railway, LLC concerning open dumped tires (which are a threat for mosquito breeding and thus West Nile Virus) under the bridge. The original inspection was conducted in March 2010, with a follow up in July 2010. After a November 2010 visit which found the dumped materials had still not been removed, I spoke with Mr. Musgrave on the phone. He stated that all tires and debris would be picked up by March 2011.

I reinspected the site on August 29, 2012 with subsequent issuance of a Used Tire Administrative Citation Warning Notice. Open dumped used tires were again observed.

On May 29, 2013, I observed additional used tires dumped on the property (See photo # 1). I returned to the property later in the day with Shaun Newell to inspect the area under the Winnebago Street Bridge which had been the subject of the previous enforcement letters. Photo # 2 was taken revealing that the open dumped tires remained on the ground near old railroad ties, as observed several years ago. No disposal receipts from Illinois Railway, LLC have ever been received documenting proper disposal of dumped tires from this location.

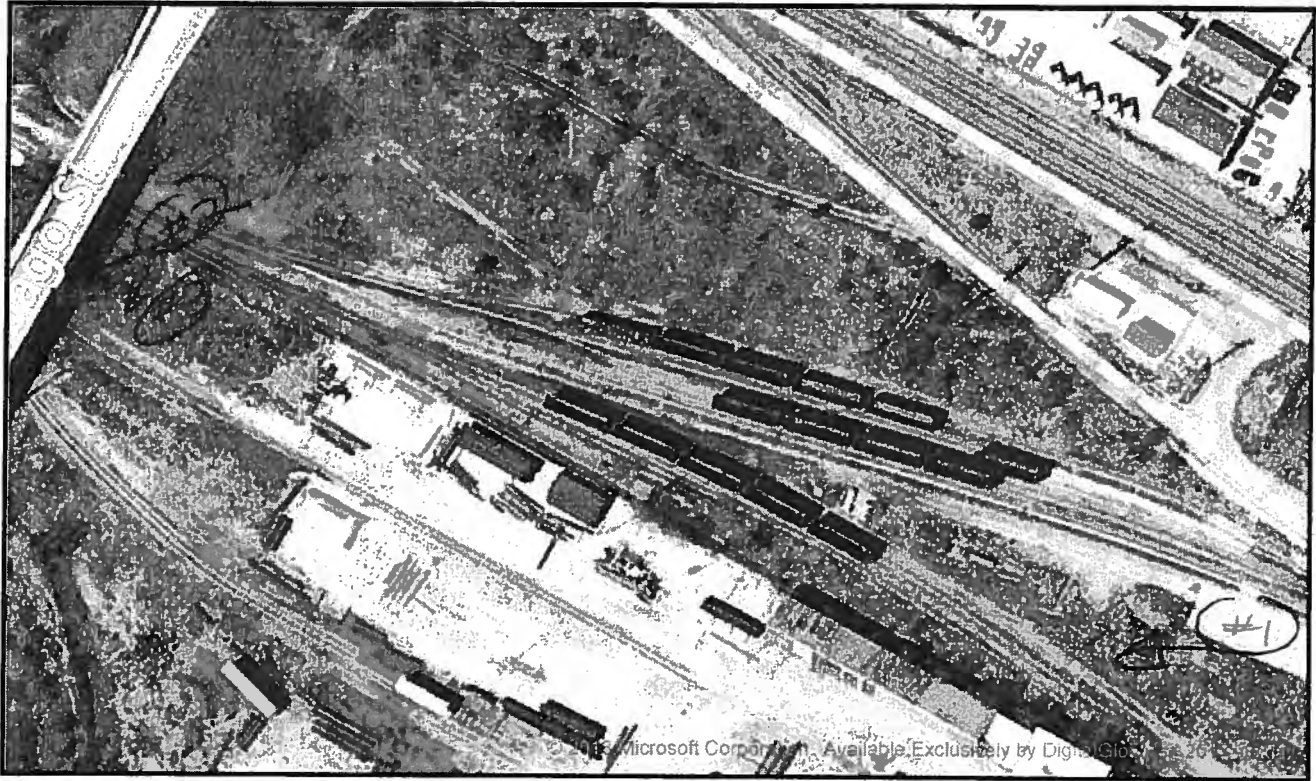
Photo # 3 was taken of two additional used tires containing water accumulation.

This Illinois Railway, LLC property was found to remain out of compliance at the time of this inspection. Apparent violations noted:

1. Section 21(a) of the Illinois Environmental Protection Act ("Act").
2. Section 21(d)(1) of the Act.
3. Section 21(d)(2) of the Act.
4. Section 21(e) of the Act.
5. Section 21(p)(1) of the Act.
6. Section 55(a)(1) of the Act.
7. Section 55(k)(1) of the Act.

END NARRATIVE BY DONNA SHEHANE

Print this page in a more readable format: Click Print next to the upper-right corner of the map.



State of Illinois  
 Environmental Protection Agency

Site Sketch

Date: 5/24/2013

County: Winnebago

Site Code: 2010306653

Inspector: Shelone

Site Name: Illinois  
 Rail Net Ops  
 Railway, LLC

Time: 9:45 - 9:50  
 am

1:15 pm - 1:20  
 pm

NOT TO SCALE  
 2010306653 ~ 050913 ~ 001-103/31/2013



## DIGITAL PHOTOGRAPHS

File Names: 2010306653~052413



Date: 05/24/2013  
Time: 9:45 am  
Direction: W  
Photo by: Shehane  
Exposure #: 001  
Comments:  
Dumped used or  
waste tires



Date: 05/24/2013  
Time: 1:17 pm  
Direction: SW  
Photo by: Shehane  
Exposure #: 002  
Comments: dumped  
used tires



***DIGITAL PHOTOGRAPHS***

**File Names: 2010306653~052413**



**Date: 05/24/2013**  
**Time: 1:18 pm**  
**Direction: S**  
**Photo by: Shehane**  
**Exposure #: 003**  
**Comments: dumped**  
**used tires with water**  
**accumulation**

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JUL 08 2013

**PROOF OF SERVICE STATE OF ILLINOIS  
Pollution Control Board**



I hereby certify that I did on the 5th day of July 2013, 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: Illinois Railway, LLC  
430 W. Madison Street  
Ottawa, IL 61350

Illinois Railway, LLC  
c/o CT Corporation System  
Suite 814  
Chicago, IL 60604

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

  
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

THIS FILING SUBMITTED ON RECYCLED PAPER