

RECEIVED
CLERK'S OFFICE

JAN 26 2004

STATE OF ILLINOIS
Pollution Control Board

Ac04-38

INFORMATIONAL NOTICE !!!

IT IS IMPORTANT THAT YOU READ THE ENCLOSED DOCUMENTS.

NOTE: This Administrative Citation refers to TWO separate State of Illinois Agencies. One is the **ILLINOIS POLLUTION CONTROL BOARD** located at State of Illinois Center, 100 West Randolph Street, Suite 11-500, Chicago, Illinois 60601. The other state agency is the **ILLINOIS ENVIRONMENTAL PROTECTION AGENCY** located at: 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 61794-9276.

If you elect to contest the enclosed Administrative citation, you must file a **PETITION FOR REVIEW** with **thirty-five (35) days** of the date the Administrative Citation was served upon you. Any such Petition for Review must be filed with the clerk of the Illinois Pollution Control Board by either hand delivering or mailing to the Board at the address given above. A copy of the Petition for Review should be either hand-delivered or mailed to the Illinois Environmental Protection Agency at the address given above and should be marked to the **ATTENTION: DIVISION OF LEGAL COUNSEL.**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD CLERK'S OFFICE

RECEIVED

ADMINISTRATIVE CITATION

JAN 26 2004

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

EMMETT ENGEL,

Respondent.

AC 04-38

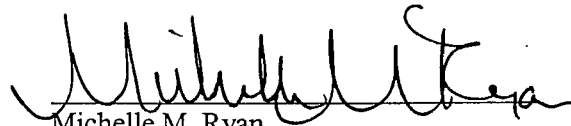
(IEPA No. 18-04-AC)

NOTICE OF FILING

To: Emmett Engel
6509 W. Oregon Trail Road
Mt. Morris, Illinois 61054

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
Special Assistant Attorney General

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

Dated: January 23, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 26 2004

STATE OF ILLINOIS
Pollution Control Board

Respondent.

AC 154-38

(IEPA No. 18-04-AC)

1. That Emmett Engel ("Respondent") is the present owner and operator of a facility located at 6545 S. Blanding Road, Hanover, JoDaviess County, Illinois. The property is commonly known to the Illinois Environmental Protection Agency as Hanover (Hanover Township)/Engel, Emmett.
2. That said facility is an open dump operating without an Illinois Environmental Protection Agency Operating Permit and is designated with Site Code No. 0858085001.
3. That Respondent has owned and operated said facility at all times pertinent hereto.
4. That on December 22, 2003, Shaun Newell of the Illinois Environmental Protection Agency's Rockford 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.

VIOLATIONS

Based upon direct observations made by Shaun Newell during the course of his December 22, 2003 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) (2002).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5) (2002), 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 One Thousand Five Hundred Dollars (\$1,500.00). 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 March 1, 2004, 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 (2002), 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) (2002), 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 (2002). 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 wsc*
Illinois Environmental Protection Agency

Date: 1/23/04

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

REMITTANCE FORM

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

V.

EMMETT ENGEL,

Respondent.

AC

(IEPA No. 18-04-AC)

FACILITY: Hanover (Hanover Township)/Engel, Emmett SITE CODE NO.: 1650055012

COUNTY: Jo Daviess CIVIL PENALTY: \$1,500.00

DATE OF INSPECTION: December 22, 2003

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

IN THE MATTER OF:

Engel, Emmett

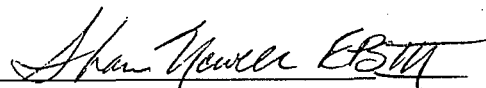
Respondent

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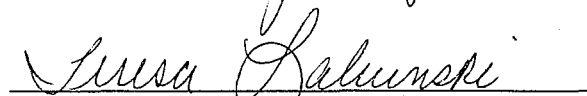
IEPA DOCKET NO.

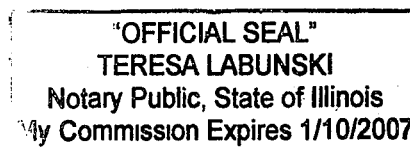
Affiant, Shaun Newell, being first duly sworn, voluntarily deposes and states as follows:

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 December 22, 2003, between 10:00 a.m. and 11:00 a.m., Affiant conducted an inspection of an open dump, located in Jo Daviess County, Illinois and known as Engel, Emmett Property by the Illinois Environmental Protection Agency. Said site has been assigned site code number LPC#0858085001 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 open dump.


Shaun Newell, Inspector

Subscribed and Sworn to Before Me
this 12 day of January, 2004


Notary Public



ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Open Dump Inspection Checklist

County: Jo Daviess LPC#: 0858085001 Region: 1 - Rockford
 Location/Site Name: Hanover (Hanover Twnsp)/Engel, Emmett
 Date: 12/22/2003 Time: From 10:00 AM To 11:00 AM Previous Inspection Date: 03/04/2003
 Inspector(s): Newell Weather: Partly Sunny 41 degrees
 No. of Photos Taken: # 4 Est. Amt. of Waste: 300 yds³ Samples Taken: Yes # No ☒
 Interviewed: Emmett Engel Complaint #: C-03-072R

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

Emmett J. Engel
 6509 W. Oregon Trail Road
 Mt. Morris, IL 61054
 815/541-1575 (Cell)

	SECTION	DESCRIPTION	VIOL
ILLINOIS ENVIRONMENTAL PROTECTION ACT REQUIREMENTS			
1.	9(a)	CAUSE, THREATEN OR ALLOW AIR POLLUTION IN ILLINOIS	☐
2.	9(c)	CAUSE OR ALLOW OPEN BURNING	☐
3.	12(a)	CAUSE, THREATEN OR ALLOW WATER POLLUTION IN ILLINOIS	☐
4.	12(d)	CREATE A WATER POLLUTION HAZARD	☐
5.	21(a)	CAUSE OR ALLOW OPEN DUMPING	☒
6.	21(d)	CONDUCT ANY WASTE-STORAGE, WASTE-TREATMENT, OR WASTE- DISPOSAL OPERATION:	
	(1)	Without a Permit	☒
	(2)	In Violation of Any Regulations or Standards Adopted by the Board	☒
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	☒
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	☒
	(2)	Scavenging	☒
	(3)	Open Burning	☐
	(4)	Deposition of Waste in Standing or Flowing Waters	☐
	(5)	Proliferation of Disease Vectors	☐
	(6)	Standing or Flowing Liquid Discharge from the Dump Site	☐

LPC # 0858085001-Jo Daviess

Inspection Date: 12/22/2003

	(7)	Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris	☐
9.	55(a)	NO PERSON SHALL:	
	(1)	Cause or Allow Open Dumping of Any Used or Waste Tire	☒
	(2)	Cause or Allow Open Burning of Any Used or Waste Tire	☐
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
10.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	☒
11.	722.111	HAZARDOUS WASTE DETERMINATION	☐
12.	808.121	SPECIAL WASTE DETERMINATION	☐
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	☐
OTHER REQUIREMENTS			
14.		APPARENT VIOLATION OF: (☐) PCB; (☐) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	☐
15.	OTHER:		☐
16.	55(C)	FAILURE TO COMPLETE A NOTIFICATION/REGISTRATION USED/WASTE TIRE ACTIVITY FORM	☒
			☐
			☐
			☐
			☐

Shawn Newell by PMP
Signature of Inspector(s)

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.

0858085001-Jo Daviess County
Hanover (Hanover Township)/Engel, Emmett
Compliance File

NARRATIVE INSPECTION REPORT

On March 4, 2003 I (Shaun Newell) conducted a complaint investigation at the above referenced site. A citizen complaint, C-03-072R, received by the Rockford Regional Office, alleged that open dumping of solid waste and tires were observed at an abandoned salvage yard. The alleged salvage yard is located at 6545 S. Blanding Road in Hanover, Illinois 61041. Jo Daviess County court records verify the property owner as Emmett Engel who resides at 6509 W. Oregon Trail Road in Mt. Morris, Illinois 61054. There is no phone number listing for Mr. Engel.

On March 4, 2003 I attempted to contact Mr. Engel at his residence. No one was home; therefore, I left a business card in his mailbox suggesting that Mr. Engel needs to contact me at the Rockford Regional Office. I then traveled to the alleged salvage yard owned by Mr. Engel. I arrived on site at 11:00 A.M. and I immediately identified several no trespassing signs posted along the perimeter of the property. Evidence of open dumping solid waste including white goods and waste tires were observed along the northwest and southwest sides of the property. I took several photographs from the side of S. Blanding Road and W. Blanding Road. An overgrowth of vegetation was observed covering the solid waste and junk vehicles parked on site. Photographs 0858085001~030403-001 through 008 verify evidence of alleged open dumping of solid waste including white goods, salvageable metals and waste tires. The Engel property surrounds a small property owned by Chris Stadel located at 6609 S. Blanding Road in Hanover, Illinois. A local tavern/restaurant owned by Hollis Dockins is located across the railroad tracks and west of the Engel Property. I estimated the solid waste open dumped on site at 300 cubic yards excluding the junk vehicles. I left the site at 11:30 A.M.

Personnel from the Jo Daviess County Health Department as well as Joseph Kratcha, GIS Coordinator for Jo Daviess County and Linda Delvaux from the Jo Daviess County Zoning Department were contacted in person and by phone. Aerial photographs of the site were faxed to the Rockford Regional Office to determine approximately how many junk vehicles were on site. Mrs. Delvaux confirmed the site was exempt from zoning restrictions due to a "grand fathered" clause. Jo Daviess County currently zones the site as a salvage yard that has apparently existed for approximately 52 years. I suggested the Jo Daviess County Health Department might want to investigate the site for disease vectors based on my investigation. Allegedly, the public has observed disease vectors such as rats and snakes on site.

After reviewing an aerial photograph taken by the USGS (United States Geological Survey) in March of 1999, I determined that there are several hundred junk vehicles on site. On March 11, 2003 I spoke by phone with Emmett Engel. Mr. Engel stated that he is not operating a salvage yard. Rather, junk vehicles (some vintage cars) have been brought in and accumulated over the years. Mr. Engel is apparently retired and will collect the cars as a hobby. Mr. Engel has referenced in past conversations that auto parts and other solid waste has been "scraped" in the past. Two facilities such as Moore's Salvage in Kieler, Wisconsin and another unnamed facility in Dubuque, Iowa were mentioned as facilities that have removed scrap metal from this site in the past. Mr. Engel stated that there is an estimated 244 to 300 junk vehicles on site. Apparently, Mr. Engel is currently going through a divorce and his wife maintains the titles to the junk automobiles. I informed Mr. Engel that evidence of open dumping of solid waste including white goods, waste tires and possibly the junk vehicles themselves may have to be recycled. I informed Mr. Engel that it would appear that

0858085001-Jo Daviess County
Hanover (Hanover Township)/Engel, Emmett
Compliance File

some of the solid waste may be donated by the public. Presumably, Jo Daviess County snowplow trucks have been forced to plow the accumulated solid waste off the road right-of-way. A suggestion was made to remove all solid waste and place a privacy fence around the facility. Mr. Engel was informed that the IEPA might give him several months to clean up the site. Based on investigative results and interviews the following solid waste violations were cited: Sections 21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(2), 55(a)(1), 55(c) of the Illinois Environmental Protection Act and Section 812.101(a) of 35 Illinois Administrative Code.

On March 19, 2003 a Violation Notice (VN) was sent out and received by Mr. Engel via certified mail on March 27, 2003. A proposed compliance date of June 4, 2003 was imposed by the IEPA when all solid waste including junk vehicles, waste tires, and white goods must be removed and recycled. Several attempts to contact Mr. Engel by phone were made but were unsuccessful. The last cell phone conversation with Mr. Engel (date unknown) verified that a written response was in the process of being drafted by his attorney, Thomas Suits of Polo, Illinois.

On July 16, 2003 a conference call was held between Thomas Suits, Paul Jagiello, Dave Retzlaff and myself. Mr. Suits agreed to submit a VN response that would address all the apparent solid waste violations. As of December 22, 2003 the Rockford Regional Office has received no VN response. In the middle of December 2003, Paul Purseglove (BOL/FOS Manager) requested that the facility be reinspected to determine the status of the solid waste clean-up.

On December 22, 2003 Shaun Newell inspected the site. Initially, no one was present on site. Mr. Engel was later tracked down in the area and interviewed on site. All existing solid waste remains on site. It would appear that the solid waste has been pushed off Blanding Road and placed on Mr. Engel's property. Mr. Engel alleges that most of the solid waste has been open dumped by the public and deposited on site by local snowplows. Mr. Engel has apparently contacted the Secretary of State's Office to obtain a salvage yard license. Dick Auman of the Illinois Secretary of State's Office confirmed this fact on December 29, 2003. Mr. Auman stated that Mr. Engel must satisfy several criteria before the license can be issued including a permanent sign listing hours, a land phone line, a permanent office, and personnel on site several hours each day. Mr. Auman stated that he would contact the IEPA if the license were issued. Mr. Engel mentioned during our conversation that he has spoken to an unnamed scrap yard in Dubuque, Iowa to make arrangements to dispose of some salvageable metal located on site. Mr. Engel is expected to pile the solid waste near the north edge of the property to facilitate easier removal. Although, there are "No trespassing" signs posted near the north entrance, there is no perimeter fence to prevent the public from accessing the facility or to prevent scavenging activities. It is thought that the public might be accessing the site and scavenging auto parts when Mr. Engel is not present.

Several photographs were taken to verify the presence of solid waste on site. Three large piles of solid waste including mostly white goods were visible from W. Blanding Road and S. Blanding Road. Photograph 0858085001~122203-001 faces northeast showing a pile of solid waste open dumped along the east side of Blanding Road. Photograph 0858085001~122203-002 faces south showing the used/waste tires stored on site. Photograph 0858085001~122203-003 faces southwest showing the white goods and other solid waste open dumped along the south side of S. Blanding Road. Photograph 0858085001~122203-004 faces east showing the solid waste open dumped on site. A preliminary estimate of 300 cubic yards of solid waste remains on site. This estimate does not include the 244 junk vehicles on site. The inspection concluded at 11:00 A.M.

0858085001-Jo Daviess County
Hanover (Hanover Township)/Engel, Emmett
Compliance File

The following apparent solid waste violations were cited during the March 4, 2003 inspection and again on December 22, 2003: Sections 21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(2), 55(a)(1), 55(c) of the Illinois Environmental Protection Act and Sections 812.101(a) of 35 Illinois Administrative Code. These apparent solid waste violations were cited since much of the solid waste has allegedly been open dumped on site.

LPC # 0858085001-Jo Daviess County
Hanover (Hanover Township)/Engel, Emmett
Compliance File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: December 22, 2003
TIME: 10:35 A.M.
DIRECTION: Northeast
PHOTO by: S. Newell
PHOTO FILE NAME:
0858085001~122203-001
COMMENTS: Facing NE
showing the white goods and
other solid waste open
dumped along the east side of
Blanding Road.



DATE: December 22, 2003
TIME: 10:40 A.M.
DIRECTION: South
PHOTO by: S. Newell
PHOTO FILE NAME:
0858085001~122203-002
COMMENTS: Facing South
showing the used/waste tires
stored on site.



LPC # 0858085001-Jo Daviess County
Hanover (Hanover Township)/Engel, Emmett
Compliance File

DIGITAL PHOTOGRAPH PHOTOCOPIES

DATE: December 22, 2003
TIME: 10:45 A.M.
DIRECTION: Southwest
PHOTO by: S. Newell
PHOTO FILE NAME:
0858085001~122203-003
COMMENTS: Facing SW
showing the white goods and
other solid waste open
dumped along the south side
of S. Blanding Road.



DATE: December 22, 2003
TIME: 10:50 A.M.
DIRECTION: East
PHOTO by: S. Newell
PHOTO FILE NAME:
0858085001~122203-004
COMMENTS: Facing East
showing the solid waste open
dumped on site.



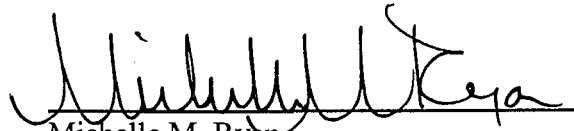
PROOF OF SERVICE

I hereby certify that I did on the 23rd day of January 2004, 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: Emmett Engel
6509 W. Oregon Trail Road
Mt. Morris, Illinois 61054

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


Michelle M. Ryan
Special Assistant Attorney General

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