

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

11-12
AC 10-_____

RECEIVED
CLERK'S OFFICE
OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

ORIGINAL

NOTICE OF FILING

To: Martin Vuichard, 508 North Harshaw, General Delivery, Cutler, IL 62238

PLEASE TAKE NOTICE that I have filed with the Office of the Clerk of the Illinois Pollution Control Board the Complaint for Administrative Citation, a copy of which is herewith served upon you.



Jennifer Foutch, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618) 357-6221

DATED: October 21, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

11-12
AC 10-___

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OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

APPEARANCE

I hereby file my appearance in this proceeding, on behalf of the County of Perry.

ORIGINAL



Jennifer Foutch, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618) 357-6221

DATED: October 21, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ADMINISTRATIVE CITATION

RECEIVED
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OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

COUNTY OF PERRY)
)
 Complainant,) AC 11-12-
) Site Code: 1450055008
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

ORIGINAL

JURISDICTION

This Administrative Citation is issued pursuant to the authority vested in the Illinois Environmental Protection Agency by 415 ILCS 5/1 *et. Seq.*, specifically 415 ILCS 5/31.1.

FACTS

1. The Respondent, Martin Vuichard, is the present owner and occupant and in control and possession of a facility located in the County of Perry, State of Illinois.
2. The facility is an open dump and designated with the Site Code #1450055008. The facility is known to the Agency as the Cutler/Martin Vuichard site.
3. The Respondent has owned, occupied, controlled and/or operated the facility at all relevant times hereto.
4. On September 15, 2010, Rebecca Tracy, Field Inspector, Perry County Solid Waste Department, inspected the facility. A true and correct copy of the inspection report, along with Ms. Tracy's affidavit, are attached and incorporated herein by reference as Exhibit A.

VIOLATIONS

On the basis of Field Inspector, Rebecca Tracy's, direct observation, she has determined that the Respondent has caused or allowed open dumping at the above described facility in a manner that resulted in the following violations:

That on September 15, 2010, an on-site inspection of the facility disclosed the following:

1. The Respondent has caused or allowed litter at the facility in violation of 415 ILCS 5/21(p)(1).
2. The Respondent has caused or allowed the deposition of general construction or demolition debris; or clean construction debris at the facility in violation of 415 ILCS 5/21(p) (7).

CIVIL PENALTY

Pursuant to Section 42(b)(4-5) of the Act, 415 ILCS 5/42(b)(4-5), 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 December 13, 2010, 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 (2006), and if the Illinois Pollution Control Board issues a finding of violation(s) 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 Fifteen Hundred Dollars (\$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), 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 a finding of violation(s) as alleged herein, and shall impose the statutory civil penalty specified above.

When payment is made, checks shall be made payable in equal amounts (50% of total penalty each) to:

(1) County of Perry, c/o Perry County Treasurer, Perry County Government Building, 3764 State Route 13/127, Pinckneyville, Illinois 62274; and,

(2) Illinois Environmental Protection Trust Fund and mailed to the attention of Fiscal Services, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois 62794-9276.

Respondent shall complete and return the enclosed Remittance Forms with payments 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 Complainant may initiate proceedings against Respondent in Circuit Court or other debt collection actions 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 415 ILCS 5/31.1. If Respondent elects to contest this Administrative Citation, then Respondent shall file a Petition for Review with the Clerk of the Illinois Pollution Control Board. A copy of the Petition for Review shall also be filed with Jennifer Foutch, Assistant State's Attorney, Perry County Courthouse, Pinckneyville, Illinois 62274. **Your Petition for Review must be filed within thirty-five (35) days of the date of service of this Administrative Citation. Your petition must state the reason(s) you believe the present matter should not be issued. If you fail to file your petition and state the reasons the present matter should not be issued, a default order against you will be entered by the Illinois Pollution Control Board.**

Your original Petition must be filed with the Clerk of the Board at:

Clerk, Pollution Control Board, 100 West Randolph, Suite 11-500, Chicago, IL 60601-3218

A copy must also be sent to:

Office of the State's Attorney, Jennifer Foutch, Assistant State's Attorney, Perry County

Courthouse, Pinckneyville, IL 62274



Jennifer Foutch, Assistant State's Attorney
Perry County, Illinois

DATE: 10/21/10

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

REMITTANCE FORM TO THE COUNTY OF PERRY

ORIGINAL

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

11-12
 AC 20-_____
 Site Code: 1450055008

RECEIVED
CLERK'S OFFICE
 OCT 25 2010
 STATE OF ILLINOIS
 Pollution Control Board

FACILITY: Cutler/Martin Vuichard

COUNTY: Perry

DATE OF INSPECTION: September 15, 2010

SITE CODE: 1450055008

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Bill Taylor
 Perry County Treasurer
 Perry County Government Building
 3764 State Route 13/127
 Pinckneyville, IL 62274

REMITTANCE FORM TO THE ILLINOIS EPA

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

11-12
AC 10 - _____
Site Code: 1450055008

ORIGINAL

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OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

FACILITY: Cutler/Martin Vuichard

COUNTY: Perry

DATE OF INSPECTION: September 15, 2010

SITE CODE: 1450055008

DATE REMITTED: _____

SS/FEIN NUMBER: _____

SIGNATURE: _____

NOTE

Please include the information on the blank lines. Mail this form with your check to:

Illinois Environmental Protection Agency
Attention: Fiscal Services
PO Box 19276
Springfield, IL 62794-9276

PROOF OF SERVICE

ORIGINAL


I hereby certify that I did on the 21st day of October, 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 instruments(s) entitled ADMINISTRATIVE CITATION, AFFIDAVITS, OPEN DUMP INSPECTION CHECKLIST, OPEN DUMP NARRATIVE, SITE SKETCH AND PHOTO SHEETS

To: Martin Vuichard
508 North Harshaw
General Delivery
Cutler, IL 62238

RECEIVED
CLERK'S OFFICE
OCT 25 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: Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218


Jennifer Foutch, Assistant State's Attorney
Perry County, Illinois

Perry County State's Attorney's Office
Perry County Courthouse
1 Public Square
Pinckneyville, IL 62274
(618)357-6221

COUNTY OF PERRY
AFFIDAVIT

ORIGINAL

COUNTY OF PERRY)
)
 Complainant,)
)
 vs.)
)
 MARTIN VUICHARD,)
)
 Respondent.)

11-12
AC 18-
Site Code: 1450055008

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OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

Affiant, Rebecca Tracy, being first duly sworn, voluntarily deposes and states as follows:

1. Affiant is a field inspector employed by the Perry county Solid Waste Management Department and has been so employed at all times pertinent hereto.
2. On September 15, 2010 between the hours of 1:45 p.m. and 1:50 p.m., Affiant conducted an inspection of the open dump site known as Cutler/Martin Vuichard, Perry County, Illinois. Said site has been assigned Site Code No. 1450055008.
3. Affiant inspected said open dump site by an on-site inspection.
4. As a result of the activities referred to in Paragraphs 2 and 3 above, Affiant completed the Open Dump Inspection Checklist and Narrative Inspection Report 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 the open dump site known as Cutler/Martin Vuichard, Cutler, Illinois.


REBECCA TRACY, Environmental Compliance Inspector

Subscribed and Sworn to before me this
21st day of October, 2010


Notary Public

◆◆◆◆◆
"OFFICIAL SEAL"
DEBBIE WALLER
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 03-20-2011
◆◆◆◆◆

LPC # 1450055008

Inspection Date: 09/15/2010

	(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 checked="" type="checkbox"/>
9.	55(a)	NO PERSON SHALL:	
	(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"/>
10.	55(k)	NO PERSON SHALL:	
	(1)	Cause or Allow Water to Accumulate in Used or Waste Tires	<input type="checkbox"/>
	(4)	Transport Used or Waste Tires in Violation of the Registration and Placarding Requirements	<input type="checkbox"/>
35 ILLINOIS ADMINISTRATIVE CODE REQUIREMENTS SUBTITLE G			
11.	812.101(a)	FAILURE TO SUBMIT AN APPLICATION FOR A PERMIT TO DEVELOP AND OPERATE A LANDFILL	<input type="checkbox"/>
12.	722.111	HAZARDOUS WASTE DETERMINATION	<input type="checkbox"/>
13.	808.121	SPECIAL WASTE DETERMINATION	<input type="checkbox"/>
14.	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"/>
15.	815.201	FAILURE TO FILE AN INITIAL FACILITY REPORT WITH THE AGENCY TO PROVIDE INFORMATION CONCERNING LOCATION AND DISPOSAL PRACTICES OF THE FACILITY.	<input type="checkbox"/>
OTHER REQUIREMENTS			
16.		APPARENT VIOLATION OF: (<input type="checkbox"/>) PCB; (<input type="checkbox"/>) CIRCUIT COURT CASE NUMBER: ORDER ENTERED ON:	<input type="checkbox"/>
17.	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 and subsection (k) of Section 55 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.

**Perry County Solid Waste Management Department
Narrative Inspection Report**

Date of Inspection: 09/15/2010 **Time:** 1:45 p.m. – 1:50 p.m.
Site Code: 1450055008 **Site Name:** Cutler/Martin Vuichard
County: Perry **Inspector:** Rebecca Tracy
Est. Waste Volume: 60 cubic yards **Previous Inspection:** 08/17/2010
Location: Lat 38.02094 Long -89.18163
Subject: Martin Vuichard
508 North Harshaw
General Delivery
Cutler, IL 62238

On September 15, 2010, an inspection was performed at the above-referenced location. This inspection was made as a follow up regarding open dumping occurring on this property. Weather conditions were approximately 85 degrees and sunny.

The information obtained from the Perry County Assessor's Office indicates that the property is owned by Martin Vuichard and Kellie Vuichard. The address is 508 North Harshaw Street, Cutler, IL 62238. The property record card identifies this property as parcel number 64-35-11, Block 8, Lots 5 and 6 in W.J. Erwins 2nd Addition in Township 6-4.

I arrived at the site at 1:45 p.m. I walked and photographed the site.

Photo 001 depicts open dumped household furniture and litter. This furniture is not outdoor furniture and is not being stored in such a way as to protect it from the elements or for future use. Photo 002 depicts the driveway of the property and the front yard where litter and debris are present. Photo 003 depicts the area surrounding a portable shed on the property. There are buckets, totes, lattice, a frame for a barbeque grill, scrap and other materials which are open dumped on the ground. At the time of the inspection, the items were not in use or not usable in their current condition; and not being stored in such a way as to protect them for any future use. Photo 004 depicts an area of the yard in front of the mobile home. The area is littered with various household items which are scattered about and open dumped on the ground. These items are not being stored in such a way as to protect them for any future use. Photo 5 depicts the area around the portable shed as mentioned previously. Photo 006 depicts the an area in front of the mobile home as mentioned previously. Photo 007 depicts additional open dumped household furniture which is not outdoor furniture and is not being stored in such a way as to protect it from the elements or for future use. Photo 008 depicts a pile of construction/demolition debris. The debris is open dumped on the ground and is not being stored in a manner as to protect it from the elements or for future use. The pile is becoming one with the ground and grass. Photo 009

depicts household items in the form of a chair and container. These items are open dumped on the ground and becoming one with the ground and grass. Photo 010 depicts a pile of construction/demolition debris which is covered with a tarp; however, it is being stored directly on the ground and is not being stored in a way that it is protected for future use.

My inspection ended at approximately 1:50 p.m.

ENVIRONMENTAL PROTECTION ACT VIOLATIONS:

21(a) Cause or Allow Open Dumping:

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**
- (7) Deposition of General Construction or Demolition Debris; or Clean Construction or Demolition Debris**

During the inspection, the open dumping of waste that resulted in litter and the deposition of general construction or demolition debris was observed.

SITE SKETCH

Date of Inspection: 09/15/2010

Time: 1:45 p.m. – 1:50 p.m.

Site Code: 1450055008

Site Name: Cutler/Martin Vulchard

County: Parry

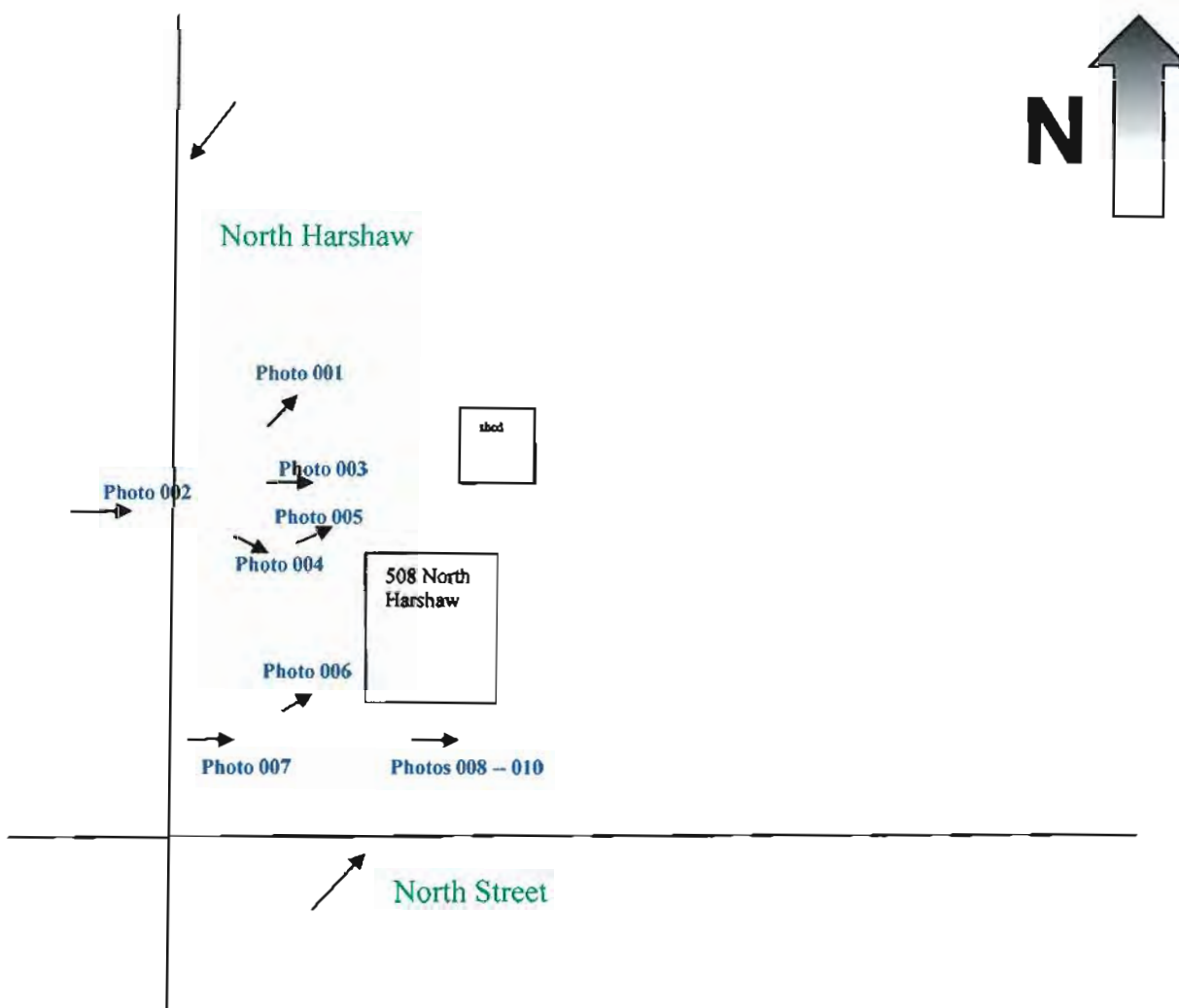
Inspector: Rebecca Tracy

Est. Waste Volume: 60 cubic yards

Previous Inspection: 08/17/2010

Location: Lat 38.02094

Long -89.18163



Not Drawn to Scale / All Location Approx. / photo direction →



DIGITAL PHOTOGRAPHS



Date: 09/15/2010
Time: 1:45 p.m.
Direction: Northeast
Photo by: R. Tracy
Exposure #: 001
Comments: open
dumped furniture
and refuse/debris



Date: 09/15/2010
Time: 1:45 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 002
Comments: litter,
refuse/debris in
driveway



DIGITAL PHOTOGRAPHS



Date: 09/15/2010
Time: 1:46 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 003
Comments: area
surrounding
portable shed:
debris/refuse



Date: 09/15/2010
Time: 1:46 p.m.
Direction: Southeast
Photo by: R. Tracy
Exposure #: 004
Comments:
debris/refuse,
household items



DIGITAL PHOTOGRAPHS



Date: 09/15/2010
Time: 1:47 p.m.
Direction: Northeast
Photo by: R. Tracy
Exposure #: 005
Comments:
refuse/debris and
household items



Date: 09/15/2010
Time: 1:47 p.m.
Direction: Northeast
Photo by: R. Tracy
Exposure #: 006
Comments:
refuse/debris and
household items



DIGITAL PHOTOGRAPHS



Date: 09/15/2010
Time: 1:48 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 007
Comments: open
dumped furniture



Date: 09/15/2010
Time: 1:48 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 008
Comments:
construction/
demolition debris



DIGITAL PHOTOGRAPHS



Date: 09/15/2010
Time: 1:49 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 009
Comments:
refuse/debris



Date: 09/15/2010
Time: 1:49 p.m.
Direction: East
Photo by: R. Tracy
Exposure #: 010
Comments:
construction/
demolition debris

OFFICE OF
PERRY COUNTY STATE'S ATTORNEY

Perry County Courthouse • One Public Square
Pinckneyville, IL 62274

State's Attorney
David N. Stanton

Telephone (618) 357-6221
FAX (618) 357-3923

Assistant State's Attorney
Jennifer Foutch

October 8, 2010

Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218

RE: Administrative Citation – Perry County/Martin Vuichard
Site Code: 1450055008
Inspection Date: September 15, 2010

Dear Clerk:

Enclosed for filing with the Board is the Administrative Citation packet issued against Martin Vuichard of Cutler, Illinois. The Respondent's mailing address is 508 North Harshaw, General Delivery, Cutler, Illinois 62238.

I will file proof of service once that is obtained on Respondent. Please acknowledge receipt and filing of the enclosed materials. Thank you.

Sincerely,


Jennifer Foutch
Assistant State's Attorney
Perry County, Illinois

Enclosures

cc: Rebecca Tracy, Perry County Solid Waste w/enclosures
IEPA Springfield (Ellen Robinson w/enclosures)
IEPA Marion (Sheila Williams w/enclosures)
Village of Cutler w/enclosures

RECEIVED
CLERK'S OFFICE
OCT 25 2010
STATE OF ILLINOIS
Pollution Control Board

AC11-12

ORIGINAL