

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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NOV 16 2010

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,

Complainant,

v.

JAMES and PATRICIA QUISENBERRY,

Respondents.

AC 11-11

(IEPA No. 291-10-AC)

ORIGINAL

NOTICE OF FILING

To: James and Patricia Quisenberry
635 North Sherman
Lincoln, IL 62656

PLEASE TAKE NOTICE that on this date I electronically filed with the Clerk of the
Pollution Control Board of the State of Illinois the following instrument(s) entitled PROOF OF
SERVICE.

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: November 16, 2010

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PROOF OF SERVICE

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NOW COMES the Complainant, the Illinois Environmental Protection Agency (“Illinois EPA”), by and through its attorney, Assistant Counsel Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.304(c), and respectfully states as follows:

(1) On October 13, 2010, Illinois EPA issued an Administrative Citation to Respondents, James and Patricia Quisenberry, based on an inspection conducted on August 24, 2010.

(2) Attached to this motion is a copy of the Certified Mail Receipt indicating that No. 7007 0220 0000 0152 3700 was processed as outgoing Certified Mail through the U.S. Postal Service in Springfield, Illinois (62703) on October 14, 2010 (Exhibit A).

(3) Pursuant to 35 Ill. Adm. Code 101.300(c), time of service for Certified Mail is deemed complete on the date indicated on the receipt, and time of service for U.S. Mail is deemed complete four days after mailing.

(4) Illinois EPA received no signed return receipt from the U.S. Postal Service, and no further information is available for No. 7007 0220 0000 0152 3700 on the U.S. Postal Service website.

(5) This Administrative Citation is uncontested.

(6) On November 9, 2010, Illinois EPA field inspector Mark Weber contacted James Quisenberry by telephone and confirmed that he had actually received Administrative Citation 291-10-AC (Exhibit B). James Quisenberry also indicated that he would be submitting the fine assessed in the Administrative Citation. *Id.*

(7) Illinois EPA received payment in full of the \$4,500.00 assessed in Administrative Citation 291-10-AC immediately following the telephone call between Mark Weber and James Quisenberry.

(8) Illinois EPA has made every attempt to prove that Administrative Citation 291-10-AC was timely served, from allowing eleven (11) days for mailing prior to the October 25, 2010 service deadline, to researching all possible avenues to determine the service date. Illinois EPA's inability to prove conclusively the precise date of service is owing to the processes of the U.S. Postal Service, and not to any fault of its own.

(9) Therefore, based on the foregoing evidence of actual service and circumstantial evidence of timely service, and pursuant to 35 Ill. Adm. Code 108.406, as a non-contested Administrative Citation, the Board should issue an order assessing penalties consistent with 35 Ill. Adm. Code 108.500(a)(1).

WHEREFORE, Illinois EPA requests that the Board issue a default order in this case, while noting that the assessed penalty has already been paid.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

DATED: November 16, 2010



e-signature valid for IPCB e-filings ONLY

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

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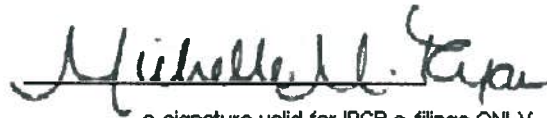
NOV 16 2010

STATE OF ILLINOIS
Pollution Control Board

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument entitled PROOF OF SERVICE are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

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e-signature valid for IPCB e-filings ONLY

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: November 16, 2010

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CERTIFICATE OF SERVICE


I hereby certify that I did on the 16th day of November, 2010, send by U.S. Mail 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 PROOF OF SERVICE

To: James and Patricia Quisenberry
635 North Sherman
Lincoln, IL 62656

 ORIGINAL

and an electronic copy of the same foregoing instrument on the same date via electronic filing

To: John Therriault, 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

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STATE OF ILLINOIS
Pollution Control Board

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at PO

City State, ZIP+4

COUNTY OF SANGAMON)
)
STATE OF ILLINOIS)

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AFFIDAVIT

I, Mark J. Weber, being first duly sworn and under oath state as follows:

1. I am a field inspector employed by the Division of Land Pollution Control of the Illinois Environmental Protection Agency ("Agency") and have been so employed at all times pertinent hereto.

2. On November 9, 2010 at approximately 8:30 am, I personally had a telephone conversation with Mr. James Quisenberry. During the phone conversation Mr. Quisenberry acknowledged receipt of an Administrative Citation (IEPA No. 291-10-AC) delivered via the United State Postal Service. Mr. Quisenberry also stated during the phone conversation that he would be submitting payment of the \$4,500 penalty levied in the Administrative Citation to the Agency via the United States Postal Service on November 9, 2010.

Further affiant sayeth not.


Mark J. Weber

Subscribed and sworn to before me this 10th day of November, 2010.


Notary Public

OFFICIAL SEAL
CHARLENE K. POWELL
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES MARCH 15, 2012
