

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85869608
LAW OFFICE ASSIGNED	LAW OFFICE 116
MARK SECTION (no change)	
ARGUMENT(S)	
<p>In the Office action, registration was refused for failing to show the applied-for mark in use in commerce. Reconsideration is respectfully requested.</p> <p>The attached substitute specimens, labeled Ex 1 – Ex 9, show an association between the GUNBUSTERS mark and the recited services and how the mark GUNBUSTERS is used in the course of rendering or performing the services. Applicant respectfully submits that the substitute specimens satisfy 1301.04(b) of the TMEP.</p> <p>Applicant provides the services of “collection of firearms for recycling” to, for example, police agencies and governments. This may, in part, alleviate over-crowding of police agency storage facilities. For economic reasons, many agencies prefer to have Applicant provide the “collection of firearm service” instead of buying the equipment Applicant also sells. As described below, Applicant’s specimens show an association between the GUNBUSTERS mark and the recited services, namely the “collection of firearms for recycling.” Further, Applicant’s specimen shows an example of how the mark GUNBUSTERS is used in the course of rendering or performing the services.</p> <p>The firearms for recycling may be delivered to Applicant by the police agencies. The firearms may be moved and/or contained in the receptacles of Ex 4 (branded GUNBUSTERS) in route to the walk-in firearm collection storage facility (branded GUNBUSTERS) of Exs 1-3. The personnel of the police agencies will clearly notice the GUNBUSTERS branding on the receptacles and storage facility.</p> <p>After the processing for recycling, the scrap from the recycled firearms may also be moved and/or contained in the receptacles of Ex 4 (branded GUNBUSTERS). As shown in Exs 5 and 6, Applicant signs the disposals requests from the police agencies as GUNBUSTERS – evidencing that Applicant is providing the firearm collection services under the GUNSBUSTERS mark. As shown in Ex 7, Applicant provides the police agency with videos (branded GUNBUSTERS) evidencing the collection of the guns for recycling. Ex 8 shows a trade show display where Applicant is offering its collection services. Ex 9 is an advertisement (branded GUNBUSTERS) mentioning recycling for scrap.</p> <p>Either alone or in conjunction with Applicant’s previous substitute specimens filed January 23, 2014, Applicant respectfully submits that the substitute specimens satisfy 1301.04(b) of the TMEP, and</p>	

clearly shows GUNBUSTERS as used both in the course of rendering or performing the services and in association between the mark and the recited services.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0004.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0009.JPG
ORIGINAL PDF FILE	evi_209135145202-20150130164155092137_ . Ex_5_Firearm_Collection_Confirmation_A.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0006.JPG
ORIGINAL PDF FILE	evi_209135145202-20150130164155092137_ . Ex_6_Firearm_Collection_Confirmation_B.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0007.JPG
ORIGINAL PDF FILE	evi_209135145202-20150130164155092137_ . Ex_7_Firearm_Recycling_Confirmation.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0008.JPG
ORIGINAL PDF FILE	evi_209135145202-20150130164155092137_ . Ex_9 - Advertisement.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0010.JPG
DESCRIPTION OF EVIDENCE FILE	Exhibits 1-9

GOODS AND/OR SERVICES SECTION (current)

INTERNATIONAL CLASS	037
DESCRIPTION	collection of firearms for recycling
FIRST USE ANYWHERE DATE	At least as early as 04/01/2013
FIRST USE IN	At least as early as 04/01/2013

COMMERCE DATE	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	037
DESCRIPTION	collection of firearms for recycling
FIRST USE ANYWHERE DATE	At least as early as 04/01/2013
FIRST USE IN COMMERCE DATE	At least as early as 04/01/2013
STATEMENT TYPE	"The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application" [for an application based on Section 1(a), Use in Commerce] OR "The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of Use" [for an application based on Section 1(b) Intent-to-Use].
SPECIMEN FILE NAME(S)	
JPG FILE(S)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0011.JPG
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	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0018.JPG
ORIGINAL PDF FILE	SPU0-209135145202-20150130164155092137 . Ex 5 Firearm Collection Confirmation A.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0015.JPG
ORIGINAL PDF FILE	SPU0-209135145202-20150130164155092137 . Ex 6 Firearm Collection Confirmation B.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0016.JPG
ORIGINAL PDF FILE	SPU0-209135145202-20150130164155092137 . Ex 7 Firearm Recycling Confirmation.pdf
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ORIGINAL PDF FILE	SPU0-209135145202-20150130164155092137 . Ex 9 - Advertisement.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\858\696\85869608\xml17\RFR0019.JPG
SPECIMEN DESCRIPTION	scanned images of photos and supporting documents showing use of the mark in connection with collection of firearms for recycling
SIGNATURE SECTION	
DECLARATION SIGNATURE	/Brian B. Diekhoff/
SIGNATORY'S NAME	Brian B. Diekhoff
SIGNATORY'S POSITION	Attorney of record
SIGNATORY'S PHONE NUMBER	314-889-8000
DATE SIGNED	01/30/2015
RESPONSE SIGNATURE	/Brian B. Diekhoff/
SIGNATORY'S NAME	Brian B. Diekhoff
SIGNATORY'S POSITION	Attorney of record
SIGNATORY'S PHONE NUMBER	314-889-8000
DATE SIGNED	01/30/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Jan 30 18:10:51 EST 2015
TEAS STAMP	USPTO/RFR-209.135.145.202 -20150130181051162416-858 69608-5303bdcaa7b801ddb70 71ee2eebf7d2c6457a312224b e54d2309e169e8b9828f3e0-N /A-N/A-201501301641550921 37

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **85869608** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

In the Office action, registration was refused for failing to show the applied-for mark in use in commerce. Reconsideration is respectfully requested.

The attached substitute specimens, labeled Ex 1 – Ex 9, show an association between the GUNBUSTERS mark and the recited services and how the mark GUNBUSTERS is used in the course of rendering or performing the services. Applicant respectfully submits that the substitute specimens satisfy 1301.04(b) of the TMEP.

Applicant provides the services of “collection of firearms for recycling” to, for example, police agencies and governments. This may, in part, alleviate over-crowding of police agency storage facilities. For economic reasons, many agencies prefer to have Applicant provide the “collection of firearm service” instead of buying the equipment Applicant also sells. As described below, Applicant’s specimens show an association between the GUNBUSTERS mark and the recited services, namely the “collection of firearms for recycling.” Further, Applicant’s specimen shows an example of how the mark GUNBUSTERS is used in the course of rendering or performing the services.

The firearms for recycling may be delivered to Applicant by the police agencies. The firearms may be moved and/or contained in the receptacles of Ex 4 (branded GUNBUSTERS) in route to the walk-in firearm collection storage facility (branded GUNBUSTERS) of Exs 1-3. The personnel of the police agencies will clearly notice the GUNBUSTERS branding on the receptacles and storage facility.

After the processing for recycling, the scrap from the recycled firearms may also be moved and/or contained in the receptacles of Ex 4 (branded GUNBUSTERS). As shown in Exs 5 and 6, Applicant signs the disposals requests from the police agencies as GUNBUSTERS – evidencing that Applicant is providing the firearm collection services under the GUNSBUSTERS mark. As shown in Ex 7, Applicant provides the police agency with videos (branded GUNBUSTERS) evidencing the collection of the guns for recycling. Ex 8 shows a trade show display where Applicant is offering its collection services. Ex 9 is an advertisement (branded GUNBUSTERS) mentioning recycling for scrap.

Either alone or in conjunction with Applicant’s previous substitute specimens filed January 23, 2014, Applicant respectfully submits that the substitute specimens satisfy 1301.04(b) of the TMEP, and clearly shows GUNBUSTERS as used both in the course of rendering or performing the services and in association between the mark and the recited services.

EVIDENCE

Evidence in the nature of Exhibits 1-9 has been attached.

JPG file(s):

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

[Evidence-5](#)

Original PDF file:

[evi_209135145202-20150130164155092137_. Ex 5 Firearm Collection Confirmation A.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209135145202-20150130164155092137_. Ex 6 Firearm Collection Confirmation B.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209135145202-20150130164155092137_. Ex 7 Firearm Recycling Confirmation.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

Original PDF file:

[evi_209135145202-20150130164155092137_. Ex 9 - Advertisement.pdf](#)

Converted PDF file(s) (1 page)

[Evidence-1](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 037 for collection of firearms for recycling

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: The applicant has had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. (15 U.S.C. Section 1051(b)).

In International Class 037, the mark was first used at least as early as 04/01/2013 and first used in commerce at least as early as 04/01/2013 .

Proposed: Class 037 for collection of firearms for recycling

Deleted Filing Basis: 1(b)

In International Class 037, the mark was first used at least as early as 04/01/2013 . and first used in commerce at least as early as 04/01/2013 .

Applicant hereby submits one(or more) specimen(s) for Class 037 . The specimen(s) submitted consists of scanned images of photos and supporting documents showing use of the mark in connection with collection of firearms for recycling .

" The substitute (or new, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application"[for an application based on Section 1(a), Use in Commerce] OR " The substitute (or new, if appropriate) specimen(s) was/were in use in commerce prior either to the filing of the Amendment to Allege Use or expiration of the filing deadline for filing a Statement of

Use " [for an application based on Section 1(b) Intent-to-Use] .

JPG file(s):

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

Original PDF file:

[SPU0-209135145202-20150130164155092137 . Ex 5 Firearm Collection Confirmation A.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPU0-209135145202-20150130164155092137 . Ex 6 Firearm Collection Confirmation B.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPU0-209135145202-20150130164155092137 . Ex 7 Firearm Recycling Confirmation.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

Original PDF file:

[SPU0-209135145202-20150130164155092137 . Ex 9 - Advertisement.pdf](#)

Converted PDF file(s) (1 page)

[Specimen File1](#)

SIGNATURE(S)

Declaration Signature

DECLARATION: The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that, if the applicant submitted the application or amendment to allege use (AAU) unsigned, all statements in the application or AAU and this submission based on the signatory's own knowledge are true, and all statements in the application or AAU and this submission made on information and belief are believed to be true.

STATEMENTS FOR UNSIGNED SECTION 1(a) APPLICATION/AAU: If the applicant filed an unsigned application under 15 U.S.C. Section 1051(a) or AAU under 15 U.S.C. Section 1051(c), the signatory additionally believes that: the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce and has been using the mark in commerce as of the filing date of the application or AAU on or in connection with the goods/services in the application or AAU, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the original specimen(s), if applicable, shows the mark in use in commerce as of the filing date of the application or AAU on or in connection with the goods/services in the application or AAU; and to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive.

STATEMENTS FOR UNSIGNED SECTION 1(b)/SECTION 44 APPLICATION: If the applicant filed

an unsigned application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the signatory additionally believes that: the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention and has had a bona fide intention as of the application filing date to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application; and to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive.

Signature: /Brian B. Diekhoff/ Date: 01/30/2015

Signatory's Name: Brian B. Diekhoff

Signatory's Position: Attorney of record

Signatory's Phone Number: 314-889-8000

Request for Reconsideration Signature

Signature: /Brian B. Diekhoff/ Date: 01/30/2015

Signatory's Name: Brian B. Diekhoff

Signatory's Position: Attorney of record

Signatory's Phone Number: 314-889-8000

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 85869608

Internet Transmission Date: Fri Jan 30 18:10:51 EST 2015

TEAS Stamp: USPTO/RFR-209.135.145.202-20150130181051

162416-85869608-5303bdcaa7b801ddb7071ee2

eebf7d2c6457a312224be54d2309e169e8b9828f

3e0-N/A-N/A-20150130164155092137

 **GUNBUSTERS**
THE EXAMINER'S FRIEND









**SIKESTON DEPARTMENT OF PUBLIC SAFETY
REQUEST FOR DISPOSAL OF PROPERTY OR EVIDENCE**

In the Circuit Court of Scott County, Missouri.

In re: Found Property Case Number: CN200708161

Defendant(s):

Date of Incident / Arrest: 5-24-07 Date Seized / Acquired: 5-24-07

Location Items Seized / Acquired: 835 Ruth

The Sikeston Department of Public Safety is holding the following property or evidence in the Sikeston DPS property room at 301 N. West in Sikeston, Mo. 63801

DESCRIPTION OF EVIDENCE/PROPERTY

Intratec 9mm handgun Serial #: Defaced
Found under the residence of 835 Ruth, the
owner is unknown.

MOTION

The above described evidence/property is not needed in any proceeding in any court and there are no known claims against it. The prosecuting attorney requests the court issue and order to:

Forfeit the above described evidence/property to the City of Sikeston

Dispose of the evidence/property.

[Signature]
Prosecuting Attorney

1/27/14
Date

ORDER

The above described evidence/property is hereby forfeited to the City of Sikeston.

The Sikeston Department of Public Safety is ordered to dispose of the above evidence/property in accordance with appropriate laws and regulations as follows:

DESTROY RELEASE TO OWNER

RELEASE TO GUN BUSTERS, LLC [Signature] 2/7/14

[Signature]
Circuit/Associate Circuit Judge

1/27/14
Date

RECORD OF DISPOSITION

On _____, 20__ the aforementioned evidence was disposed of in accordance with required regulations and in the manner indicated above.

Accountable Officer

Witness

One copy to be filed with appropriate court.

**ST. LOUIS COUNTY POLICE DEPARTMENT
EVIDENCE RECEIPT CONTINUATION**

PAGE 1 OF 4

COMPLAINT NO. 14-671

ITEM NO.	DESCRIPTION (INCLUDE SERIAL NUMBERS)	OWNER CODE	DISPOSITION CODE	FORENSIC USE ONLY
1	NEW ENGLAND 20 GA	NIA	Destroy	NS233219
2	STEVENS 12 GA	NIA	Destroy	E287992
3	SC HIGGINS 12 GA	NIA	Destroy	NIA SIN
4	MADE IN CHINA BB GUN	NIA	Destroy	NIA
5	SKS	NIA	Destroy	580539
6	Winchester 370 20 GA	8355	Destroy	C376393
7	H&R 929 22 Rev	68363	Destroy	AE84855
8	Winchester 20 GA	447	Destroy	L739877
9	TITAN 25	1392	Destroy	DE01193
10	CAP + Ball	1392	Destroy	A99676
11	NEW ENGLAND 20	10952	Destroy	NG307643
12	S&W 138 Rev	10739	Destroy	546518
13	12 GA SAW-OFF	12607	Destroy	NIA
14	RUGER 9mm	9285	Destroy	311-11549
15	COIT 138	9285	Destroy	D7633R
16	MOSSBERG 12 GA	14730	Destroy	P369955
17	LORCIN 380	7461	Destroy	483140
18	COIT 38 Rev	1932	Destroy	496955
19	RUGER 223	2037	Destroy	188-91717
20	AK-47 Integral 2766	2057	Destroy	1997-5286
21	MILLIN 12 GA	2619	Destroy	Km114925
22	MILLIN 22	2619	Destroy	13472131
23	Remington 22	6799	Destroy	176124
24	S&W 138 Rev	10491	Destroy	8K75837
25	Imperial Metal 22	13519	Destroy	52281
26	22 CAL Revolver	3572	Destroy	260962

CHAIN OF CUSTODY

ITEM NO.

FROM: <u>Det. [Signature]</u> 317	TO: <u>R. [Signature]</u>	DATE: _____
FROM: _____	TO: <u>GENIBUSTERS, LLC</u>	DATE: _____
FROM: _____	TO: _____	DATE: _____
FROM: _____	TO: _____	DATE: _____
FROM: _____	TO: _____	DATE: _____



FIREARMS DESTRUCTION RECORD

AGENCY: Webster Groves, MO PD

DATE: December 19, 2013



FIREARMS DESTRUCTION RECORD

AGENCY: St. Charles County Sheriff Dept

DATE: November 5, 2013



GUNBUSTERS®

FIREARMS PULVERIZER

SAFE, SIMPLE & SECURE
FIREARMS DISPOSAL



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Dispose of the evidence/property.

[Signature]
Prosecuting Attorney

1/27/14
Date

ORDER

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DESTROY RELEASE TO OWNER

RELEASE TO GUN BUSTERS, LLC [Signature] 2/7/14

[Signature]
Circuit/Associate Circuit Judge

1/27/14
Date

RECORD OF DISPOSITION

On _____, 20__ the aforementioned evidence was disposed of in accordance with required regulations and in the manner indicated above.

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**ST. LOUIS COUNTY POLICE DEPARTMENT
EVIDENCE RECEIPT CONTINUATION**

PAGE 1 OF 4

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2	STEVENS 12 GA	NIA	Destroy	E287992
3	SC HIGGINS 12 GA	NIA	Destroy	NIA SIN
4	MADE IN CHINA BB GUN	NIA	Destroy	NIA
5	SKS	NIA	Destroy	580539
6	Winchester 370 20 GA	8355	Destroy	C376393
7	H&R 929 22 Rev	68363	Destroy	AE84855
8	Winchester 20 GA	447	Destroy	L739877
9	TITAN 25	1392	Destroy	DE01193
10	CAP + Ball	1392	Destroy	A99676
11	NEW ENGLAND 20	10952	Destroy	NG307643
12	S&W 138 Rev	10739	Destroy	546518
13	12 GA SAW-OFF	12607	Destroy	NIA
14	RUGER 9mm	9285	Destroy	311-11549
15	COIT 138	9285	Destroy	D7633R
16	Mossberg 12 GA	14730	Destroy	P369955
17	Lorcin 380	7461	Destroy	483140
18	COIT 38 Rev	1932	Destroy	496955
19	RUGER 223	2037	Destroy	188-91717
20	AK-47 Integral 2766	2057	Destroy	1997-5286
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22	MILLIN 22	2619	Destroy	13472131
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24	S&W 138 Rev	10491	Destroy	8K75837
25	Imperial Metal 22	13519	Destroy	52281
26	22 CAL Revolver	3572	Destroy	260962

CHAIN OF CUSTODY

ITEM NO.

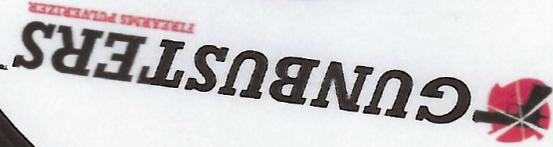
FROM: <u>Det. [Signature]</u> 317	TO: <u>R. [Signature]</u>	DATE: _____
FROM: _____	TO: <u>GENIBUSTERS, LLC</u>	DATE: _____
FROM: _____	TO: _____	DATE: _____
FROM: _____	TO: _____	DATE: _____
FROM: _____	TO: _____	DATE: _____



FIREARMS DESTRUCTION RECORD

AGENCY: Webster Groves, MO PD

DATE: December 19, 2013



FIREARMS DESTRUCTION RECORD

AGENCY: St. Charles County Sheriff Dept

DATE: November 5, 2013



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