

Service List

For the Respondent

Lee Trucking, Inc.
c/o Sherilyn Rabideau, Registered Agent
740 E. Walnut Street
Watseka, IL 60970
(via certified mail)

Lee Trucking, Inc.
c/o Mary I. Lee, President
303 E. Main Street
P.O. Box 178
Thawville, IL 60968
(via certified mail)

Lee Trucking, Inc.
c/o Mary I. Lee, President
303 E. Main Street
Thawville, IL 60968
(via certified mail)

Lee Trucking, Inc.
c/o Steven Lee
303 E. Main Street
P.O. Box 178
Thawville, IL 60968
(via certified mail)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2023-
)	(Enforcement - Water)
LEE TRUCKING, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, LEE TRUCKING, INC., an Illinois corporation as follows:

COUNT I
FAILURE TO OBTAIN COVERAGE UNDER GENERAL NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR STORM WATER DISCHARGES FROM INDUSTRIAL ACTIVITIES

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, against Respondent on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2020).

2. Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and is charged, *inter alia*, with the duty of enforcing the Act. Illinois EPA is further charged with the duty to abate violations of the National Pollutant Discharge Elimination System (“NPDES”) Permit Program under the Federal Clean Water Act (“CWA”), 33 U.S.C. §1342(b)(7).

3. Respondent, LEE TRUCKING, INC., is an involuntarily dissolved Illinois corporation. Lee Trucking, Inc. was registered with the Secretary of State to do business in Illinois until its dissolution on May 12, 2023.

4. At all times relevant to this Complaint, Respondent owned and operated a business located at 303 East Main Street, Thawville, Iroquois County, Illinois (“Facility”).

5. Respondent is and was a hauler of: farm machinery, mowers, nonhazardous materials, mulch, corncobs, lumber, grain feed hay, building materials, sheet metal, and dry freight.

6. The Facility has outdoor FS fuel tanks. Due to the outdoor fuel tanks, Respondent is required to have coverage under the General National Pollutant Discharge Elimination System (“NPDES”) Permit for Industrial Activities for discharge of stormwater to waters of the State of Illinois (“General NPDES Stormwater Permit”)

7. On May 23, 1994, Respondent obtained General Stormwater Permit coverage under NPDES Permit No. ILR004578 (“Permit”).

8. On March 31, 2022, the permit expired.

9. The current iteration of the General NPDES Stormwater Permit was issued on April 5, 2017, and anyone seeking coverage under this iteration of the General NPDES Stormwater Permit must submit a Notice of Intent (“NOI”) and a Storm Water Pollution Prevention Plan (“SWPPP”).

10. On October 16, 2018, Illinois EPA sent correspondence to Respondent noting that Respondent needed to submit an application to renew its NPDES General Stormwater Permit.

11. On September 13, 2019, Illinois EPA conducted an inspection at the Facility.

12. On September 13, 2019, Illinois EPA observed outdoor FS fuel tanks. A representative of Respondent advised that the tanks were no longer in operation (“September 2019 Inspection”).

13. At the time of the September 2019 Inspection, Illinois EPA advised that, due to the presence of the FS fuel tanks, the Facility required an NPDES General Stormwater Permit.

14. On September 17, 2019, Illinois EPA issued a second reminder letter to Respondent that it was required to submit an NOI to renew coverage under the General NPDES Stormwater Permit, a current SWPPP, and past due annual reports.

15. On February 24, 2020, Illinois EPA issued a Violation Notice to Respondent for the failure to submit an application to renew its Permit.

16. On March 12, 2020, Illinois EPA received an incomplete renewal application from Respondent. The application was incomplete in that it did not include a SWPPP.

17. On January 15, 2021, Illinois EPA issued a Notice of Intent to Pursue Legal Action to Respondent for its failure to submit a complete renewal application.

18. On October 28, 2022, Respondent’s renewal application was deemed administratively complete.

19. Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), provides, in pertinent part, as follows:

No person shall:

* * *

- (f) Cause, threaten or allow the discharge of any contaminant into the waters of the State, as defined herein, including but not limited to, waters to any sewage works, or into any well or from any point source within the State, without an NPDES permit for point source discharges issued by the Agency under Section 39(b) of this Act, or in violation of any term or condition imposed by such permit, or in violation of any NPDES permit filing requirement established under Section 39(b), or in violation of any regulations adopted by the Board or of any order adopted by the Board with respect to the NPDES program.

* * *

- 20. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.
- 21. Respondent, a corporation, is a “person,” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).
- 22. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides as follows:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.
- 23. Stormwater discharges associated with industrial activity are a “contaminant,” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).
- 24. Section 3.550 of the Act, 415 ILCS 5/3.550 (2020), provides as follows:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this State.
- 25. Watercourses downgradient of the Facility are “waters” of the State, as that term is defined in Section 3.550 of the Act, 415 ILCS 5/3.550 (2020).
- 26. Section 309.102(a) of the Illinois Pollution Control Board’s (“Board”) regulations, 35 Ill. Adm. Code 309.102(a), provides as follows:

- a) Except as in compliance with the provisions of the Act, Board regulations, and the CWA, and the provisions and conditions of the NPDES permit issued to the discharger, the discharge of any contaminant or pollutant by any person into the waters of the State from a point source or into a well shall be unlawful.

27. The United States Environmental Protection Agency (“USEPA”) has authorized the State of Illinois to issue NPDES permits through Illinois EPA in compliance with federal regulations, including stormwater discharges regulated by 40 CFR § 122.26, which requires a person to obtain an NPDES permit and implement a stormwater pollution prevention plan for stormwater discharges associated with industrial activity.

28. Section 122.26 of the Code of Federal Regulations, 40 CFR § 122.26, provides, in pertinent part, as follows:

(a) Permit Requirement.

- (1) Prior to October 1, 1994, discharges composed entirely of storm water shall not be required to obtain a NPDES permit except:

* * *

- (ii) A discharge associated with industrial activity. . .

* * *

(b) Definitions.

* * *

- (14) Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. . . . The following categories of facilities are considered to be engaging in “industrial activity” for purposes of paragraph (b)(14):

* * *

- (viii) Transportation facilities classified as Standard Industrial Classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14) (i)-(vii) or (ix)-(xi) of this section are associated with industrial activity.

* * *

- 29. The Facility is classified as Industry Group 4213: Trucking, Except Local.
- 30. The Facility is a facility considered to be engaging in “industrial activity” within the meaning of Section 122.26 of the Code of Federal Regulations, 40 CFR § 122.26.
- 31. Stormwater discharges from the Facility are associated with industrial activity and therefore require an NPDES permit.
- 32. On or after April 5, 2017 through October 28, 2022, and on dates better known to Respondent, Respondent operated a facility engaged in industrial activity without obtaining coverage under the General NPDES Stormwater Permit.
- 33. By operating a facility engaged in industrial activity without obtaining coverage under the General NPDES Stormwater Permit, Respondent caused, threatened, or allowed the discharge of stormwater associated with industrial activity into waters of the State without an NPDES permit, and thereby violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).
- 34. At times better known to Respondent, Respondent discharged stormwater associated with industrial activity from the Facility into waters of the State without obtaining coverage under the General NPDES Stormwater Permit.

35. By discharging stormwater associated with industrial activity from the Facility into waters of the State without obtaining coverage under the General NPDES Stormwater Permit, Respondent discharged contaminants into waters of the State in violation of the Act, and thereby violated Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a).

36. By causing, threatening, or allowing the discharge of stormwater associated with industrial activity into waters of the State in violation of the Board's NPDES regulations, Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, LEE TRUCKING, INC., on Count I:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent violated Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

C. Ordering the Respondent to cease and desist from further violations of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

D. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020), a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation of Section 12(f) of the Act, 415 ILCS 5/12(f) (2020), and Section 309.102(a) of the Board's regulations, 35 Ill. Adm. Code 309.102(a);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Ordering such other and further relief as the Court deems appropriate and just.

COUNT II
WATER POLLUTION

1-35. Complainant re-alleges and incorporates by reference herein paragraphs 1 through 18 and 20 through 36 of Count I as paragraphs 1 through 35 of this Count II.

36. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), provides as follows:

No person shall:

(a) Cause or threaten or allow the discharge of any contaminants into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act.

37. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), provides as follows:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

38. The discharge of stormwater associated with industrial activities from the Facility into downgradient receiving waters is “water pollution,” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

39. At times better known to Respondent, Respondent caused, threatened, or allowed the discharge of stormwater associated with industrial activity from the Facility into waters of the State.

40. By causing, threatening, or allowing the discharge of stormwater associated with industrial activities from the Facility, Respondent caused, threatened, or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

41. By causing, threatening, or allowing the discharge of stormwater associated with industrial activities so as to violate the Board's regulations, Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter an order in favor of the Plaintiff and against the Respondent, LEE TRUCKING, INC., on Count II:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that the Respondent violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);

C. Ordering the Respondent to cease and desist from further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);

D. Assessing against the Respondent, pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2020), a civil penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each day of each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);

E. Awarding to the Complainant its costs, including expert witness, consultant, and attorney fees, expended in pursuit of this action, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2020); and

F. Ordering such other and further relief as the Court deems appropriate and just.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: /s/ Rachel R. Medina
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CERTIFICATE OF SERVICE

I, Kevin D. Barnai, an Assistant Attorney General, certify that on the 31st day of May, 2023, I caused to be served by U.S. Certified Mail, the foregoing Notice of Filing and Complaint to the parties named on the attached Service List, by depositing same in postage prepaid envelopes with the United States Postal Service located at 500 South Second Street, Springfield, Illinois 62706.

By: s/ Kevin D. Barnai
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