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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD AUG 30 2000

PEOPLE OF THE STATE OF ILLINOIS)
ex rel. GARY W. PACK,)
McHenry County State's Attorney,)
)
Plaintiff,)
vs.)
)
MICHAEL STRINGINI,)
)
Defendant.)

STATE OF ILLINOIS
Pollution Control Board

PCB 01-43

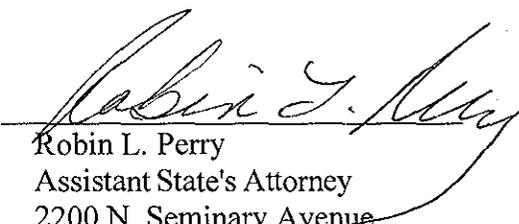
NOTICE OF FILING

TO: Michael Stringini
437 Spruce Court
Schaumburg, Illinois 60193

PLEASE TAKE NOTICE that we have today filed with the Illinois Pollution Control Board a Complaint and Certificate of Service on behalf of the Illinois Environmental Protection Agency, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

GARY W. PACK
McHenry County State's Attorney

By: 
Robin L. Perry
Assistant State's Attorney
2200 N. Seminary Avenue
Woodstock, Illinois 60098
(815) 334-4159

DATE: August 30, 2000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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STATE OF ILLINOIS
Pollution Control Board

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COMPLAINT FOR CIVIL PENALTIES

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, ex rel. GARY W. PACK, McHenry County State's Attorney, complains of Defendant, MICHAEL STRINGINI as follows:

BACKGROUND

1. This complaint is brought on behalf of the People of the State of Illinois by McHenry County State's Attorney, GARY W. PACK and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Sections 42(a) (d) (e) and (f) of the Illinois Environmental Protection Act ("Act") 415 ILCS 5/42(a) (d) (e) and (f), as amended.

2. The Illinois Environmental Protection Agency ("Agency") is an administrative agency of the State of Illinois created by Section 4 of the Act, 415 ILCS 5/4, and is charged with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Norman Zimmerman ("Zimmerman") has owned and operated a facility located on McCue Road, south of Illinois Highway 176 in Union, McHenry County, Illinois ("facility" or "site").

4. On information and belief, from approximately 1980 to 1984, Mr. Zimmerman leased the facility to the Defendant, Michael Stringini (d/b/a M&G Metal Reclaiming)("Stringhini"), who used the property for the purpose of reclaiming metals from foundry sand.

5. Sloan Valve Company ("Sloan") is a corporation organized and existing under the laws of the State of Illinois. Sloan generated some of the foundry sand stored at the site.

6. On information and belief, Mr. Stringini abandoned the property in the mid-1980's, leaving 170 drums of foundry sand, 2600 cubic yards of foundry sand in piles and 120 cubic yards of sand in surface impoundments that were stored at the facility.

7. At all times relevant to this Complaint, site samples that were taken at the facility indicated that the foundry sand contained levels of lead, which exceeded regulatory limits.

8. From at least May 17, 1982, and continuing to the present, the Defendant has not had a permit to treat, store or dispose of hazardous waste at the facility.

9. From at least May 17, 1982, and continuing to the present, the Defendant has not had a permit from the IEPA to develop or operate a solid waste management site.

10. On information and belief, Sloan, with the assistance of Mr. Zimmerman, performed a closure of the site under 35 Ill. Adm. Code Part 725, Subpart G. On June 9, 1998, the Illinois EPA approved a certification of closure of the site submitted by Sloan after the objectives set forth in 35 Ill. Adm. Code Part 742, Tiered Approach to Corrective Action Objectives were achieved.

COUNT I

CONDUCTING A HAZARDOUS WASTE STORAGE AND DISPOSAL OPERATION WITHOUT A PERMIT

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Court I as if fully set forth herein.

11. Section 21(f) of the Act, 435 5/21(f), provides, in pertinent part as follows:

No person shall:

- (f) Conduct any hazardous waste-storage, hazardous waste-treatment or hazardous waste-disposal operation:
 - (1) without a RCRA permit for the site issued by the Agency under subsection (d) of section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
 - (2) In violation of any regulations or standards adopted by the Board under this Act; . . .

12. Section 703.121 of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 703.121, provides, in pertinent part, as follows:

- a) No person shall conduct any hazardous waste storage, hazardous waste treatment or hazardous waste disposal operation:
 - 1) Without a RCRA permit for the HWM (hazardous waste management) facility; or
 - 2) In violation of any condition imposed by a RCRA permit;
- b) Owners and operators of HWM units shall have permits during the active life (including the closure period) of the unit. Owners and operators of surface impoundments, landfills, land treatment units and waste pile units that received wastes after July 26, 1982, or that certified closure (according to 35 Ill. Adm. Code 725.215) after January 26, 1983, shall have post-closure permits, unless they demonstrate closure by removal or decontamination, as provided under Section 703.159 and 703.160, or

obtain enforceable documents containing alternative requirements, as provided under Section 703.161. If a post-closure permit is required, the permit must address applicable 35 Ill. Adm. Code 724 groundwater monitoring, unsaturated zone monitoring, corrective action and post-closure care requirements.

13. Section 703.150 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 703.150, provides:

- a) The owner or operator of an existing HWM facility or of an HWM facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a RCRA permit must submit Part A of the permit application to the Agency no later than the following times, whichever comes first:
 - 1) Six months after the date of publication of regulations which first require the owner or operator to comply with standards in 35 Ill. Adm. Code 725 or 726; or
 - 2) Thirty days after the date the owner or operator first becomes subject to the standards in 35 Ill. Adm. Code 725 or 726; or
 - 3) For generators which generate greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and treat, store or dispose of these wastes on-site, by March 24, 1987.
- b) In granting a variance under subsection (c), below, the Board will consider whether there has been substantial confusion as to whether the owner or operator of such facilities were required to file a Part A application and whether such confusion was attributable to ambiguities in 35 Ill. Adm. Code 720, 721 or 725.
- c) The time for filing Part A of the permit application may be extended only by a Board Order entered pursuant to a variance petition.
- d) The owner or operator of an existing HWM facility may be required to submit Part B of the permit application. The Agency will notify the owner or operator that a Part B application is required, and set a date for receipt of the application, not less than six months after the date the notice is sent. The owner or operator may voluntarily

submit a Part B application for all or part of the HWM facility at any time. Notwithstanding the above, any owner or operator of an existing HWM facility must submit a Part B permit application in accordance with the dates specified in Section 703.157. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments which render the facility subject to the requirement to have a RCRA permit must submit a Part B application in accordance with the dates specified in Section 703.157.

- e) Interim status may be terminated as provided in Section 703.157

14. Section 724.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 724.101(a), provides as follows:

- a) The purpose of this Part is to establish minimum standards that define the acceptable management of hazardous waste.

15. Section 702.110 of the Board Waste Disposal Regulations, 35 Ill. Adm.

702.110, provides in pertinent part, the following definitions:

“HWM facility” (RCRA) means “Hazardous Waste Management Facility”

“Hazardous waste management facility (“HWM facility”) means all contiguous land and structures, other appurtenances and improvements on the land, used for treating, storing or disposing of “hazardous waste”. A facility may consist of several “treatment”, “storage” or “disposal” operational units (for example, one or more landfills, surface impoundments or combinations of them).

“Hazardous Waste” (RCRA and UIC) means a hazardous waste as defined in 35 Ill. Adm. Code 721.103.

“Disposal” (RCRA) means the discharge, deposit, injection, dumping, spilling, leaking or placing of any “hazardous waste” into or on any land or water so that such hazardous waste or any constituent of the waste may enter the environment or be emitted into the air or discharged into any waters, including ground water.

“Storage” (RCRA) means the holding of “hazardous waste” for a temporary period, at the end of which the hazardous waste is treated, disposed or stored elsewhere.

“Treatment” (RCRA) means any method, technique, process, including neutralization, designed to change the physical, chemical or biological character or composition of any “hazardous waste” so as to neutralize such wastes, or so as to recover energy or material resources from the waste, or so as to render such wastes non-hazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage or reduced in volume.

16. Section 721.102 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 721.102, provides in pertinent part, as follows:

a) Solid Waste.

1) A solid waste is any discarded material that is not excluded by Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131.

2) A discarded material is any material that is:

A) Abandoned, as explained in subsection (b) of this section;

B) Recycled, as explained in subsection (c) of this section;

C) Considered inherently waste-like, as explained in subsection (d) of this section; . . .

b) Materials are solid waste if they are abandoned by being:

1) Disposed of; or

2) Burned or incinerated; or

3) Accumulated, stored or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned or incinerated.

17. Section 721.103 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 721.103, provides, in pertinent part, as follows:

a) A solid waste, as defined in Section 721.102, is a hazardous waste if:

1) It is not excluded from regulation as a hazardous waste under Section 721.104(b); and

2) It meets any of the following criteria:

A) It exhibits any of the characteristics of hazardous waste identified in subpart C of this Part . . .

18. The foundry sand is material that was abandoned on Defendant Zimmerman's property.

19. The foundry sand located at the facility constituted solid waste as that term is defined in the Board Waste Disposal Regulations.

20. Section 721.120(a) of the Subpart C of Part 721 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 721.120(a), provides, in pertinent part, as follows:

a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is hazardous waste if it exhibits any of the characteristics identified in this Subpart.

21. Section 721.124 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 721.124, in effect in 1988, provided as follows:

a) A solid waste exhibits the characteristic of EP toxicity if, using the test methods described in Appendix II or equivalent methods (Section 720.121), the extract from a representative sample of the waste contains any of the contaminants listed in Table I at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering is considered to be the extract for the purpose of this Section.

b) A solid waste that exhibits the characteristic of EP toxicity, but is not listed as a hazardous waste in Subpart D, has the EPA Hazardous Waste Number specified in Table I which corresponds to the toxic contaminant causing it to be hazardous.

Table I. - CONCENTRATION OF CONTAMINANTS FOR
CHARACTERISTICS OF EP TOXICITY

EPA
Hazardous

<u>Waste Number</u>	<u>Contaminant</u>	<u>Concentration (mg/l)</u>
D008	Lead	5.0

22. Effective as of the filing of this complaint, Section 721.124 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 721.124, provides as follows:

- a) A solid waste exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure (TCLP), test Method 1311 in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", U.S. EPA Publication SW-846, as incorporated by reference in 35 Ill. Adm. Code 720.111, the extract from a representative sample of the waste contains any of the contaminants listed in the table in subsection (b) below at a concentration equal to or greater than the respective value given in that table. Where the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in Method 1311, is considered to be the extract for the purpose of this Section.
- b) A solid waste that exhibits the characteristic of toxicity has the U.S. EPA Hazardous Waste Number specified in the following table that corresponds to the toxic contaminant causing it to be hazardous.

MAXIMUM CONCENTRATIONS OF CONTAMINANTS FOR THE
TOXICITY CHARACTERISTIC

<u>USEPA Hazardous Waste Number</u>	<u>Contaminant</u>	<u>No.</u>	<u>Regulatory CAS Level Note MG/l)</u>
D008	Lead	7439-92-1	5.0

23. The foundry sand stored at the facility contained lead which exhibits the characteristic of toxicity as defined in Section 721.124 of the Board Waste Disposal regulations and was a hazardous waste identified by number D008.

24. On information and belief, from at least January 12, 1988 until June 9, 1998, the Defendant stored and/or disposed of foundry sand containing lead, hazardous waste as defined in the Board Waste Disposal Regulations, at the facility.

25. The Defendant conducted a hazardous waste storage and/or hazardous waste disposal operation without a RCRA permit issued by the Agency for the facility, in violation of Section 21(f) of the Act and Sections 703.121 and 703.150 of the Board Waste Disposal Regulations.

26. Plaintiff requires all RCRA storage or disposal sites to post financial assurances pursuant to Section 21(f) of the Act and Sections 725.243, 725.245 and 725.246 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order against Defendant with respect to Count I:

A. Finding that Defendant has caused or allowed violations of Section 21(f) of the Act and 35 Ill. Adm. Code 703.121 and 703.150;

B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;

C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and

D. Granting such other relief as this Court deems appropriate.

COUNT II

FAILURE TO PROPERLY STORE HAZARDOUS WASTE

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count II as if fully set forth herein.

11. Section 725.271 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 725.271(a) provides as follows:

If a container holding hazardous waste is not in good condition or if it begins to leak, the owner or operator shall transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that it complies with the requirements of this Part.

12. Section 725.273(a) and (b) of the Board Waste Disposal Regulations, 35

Ill. Adm. Code 725.273(a) and (b) provides as follows:

a) A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste.

b) A container holding hazardous waste must not be opened, handled or stored in a manner which may rupture the container or cause it to leak.

13. Section 728.150(a) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 728.150(a), provide as follows:

a) Except as provided in this Section, the storage of hazardous wastes restricted from land disposal under Subpart C of this Part is prohibited, unless the following conditions are met:

1) A generator stores such wastes in tanks, containers or contaminant buildings on-site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal and the generator complies with the requirements in 35 Ill. Adm. Code 722.134 and 35 Ill. Adm. Code 724 and 725. (A generator that is in existence on the effective date of a regulation under this Part and which must store hazardous wastes for longer than 90 days due to the regulations under this Part becomes an owner or operator of a storage facility and shall obtain a RCRA permit, as required by 35 Ill. Adm. Code 703. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under 35 Ill. Adm. Code 703.153.)

- 2) An owner or operator of a hazardous waste treatment, storage or disposal facility stores such wastes in tanks, containers or containment buildings solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment or disposal and each of the following conditions are fulfilled:
 - A) Each container is clearly marked to identify its contents and the date each period of accumulation begins; and
 - B) Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received and the date each period of accumulation begins, or such information is recorded and maintained in the operating record at the facility. Regardless of whether the tank itself is marked, the owner and operator shall comply with the operating record requirements of 35 Ill. Adm. Code 724.173 or 725.173.
- 3) A transporter stores manifested shipments of such wastes at a transfer facility for 10 days or less.

14. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to maintain the drums of hazardous waste in good condition and keep the drums closed during storage in violation of Sections 725.271 and 725.273(a) of the Board Waste Disposal Regulations.

15. On information and belief, from at least April 14, 1992 until at least November 3, 1994, the Defendant stored hazardous waste at the facility in violation of Section 728.150(a) of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this court enter an order against Defendant with respect to Count II:

A. Finding the Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.271, 725.273(a) and 728.150(a);

B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;

C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and

D. Granting such other relief as this court deems appropriate.

COUNT III

FAILURE TO INSTITUTE PROPER SITE ENTRY CONTROLS

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraph 1 through 10 of this Count III as if fully set forth herein.

11. Section 725.114 of the Board Waste Disposal Regulations 35 Ill. Adm. Code 725.114, provides as follows:

- a) The owner or operator must prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons or livestock onto the active portion of his facility, unless:
 - 1) Physical contact with the waste, structures, or equipment of the active portion of the facility will not injure unknowing or unauthorized persons or livestock that may enter the active portion of a facility; and
 - 2) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of this Part.
- b) Unless exempt under subsections (a)(1) and (a)(2) above, a facility must have:

- 1) A 24-hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry into the active portion of the facility; or
- 2) Controlled access, including the following minimum elements:
 - A) An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), that completely surrounds the active portion of the facility; and
 - B) A means to control entry at all times through the gates or other entrances to the active portion of the facility (e.g. an attendant, television monitors, locked entrance or controlled roadway access to the facility).
- c) Unless exempt under subsections (a)(1) and (a)(2) above, a sign with the legend, "Danger-Unauthorized Personnel Keep Out", must be posted at each entrance to the active portion of a facility and at other locations, in sufficient numbers to be seen from any approach to this active portion. The sign must be legible from a distance of at least 25 feet. Existing signs with a legend other than "Danger-Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion and that entry onto the active portion can be dangerous.

12. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to control entry to the site at all times through the gates or other entrances, failed to post a "Danger-Unauthorized Personnel Keep Out" sign and failed to prevent the unknowing entry and minimize the possibility of unauthorized entry of persons or livestock onto the active portion of the facility in violation of Section 725.114 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Plaintiff and against Defendant with respect to Count III:

- A. Finding that Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.114;
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and
- D. Granting such other relief as this Court deems appropriate.

COUNT IV

FAILURE TO CONDUCT PROPERTY INSPECTIONS AND MAINTAIN PROPER INSPECTION RECORDS

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count IV as if fully set forth herein.

11. Section 725.115 of the Board Waste Disposal Regulations 35 Ill. Adm. Code 725.115, provides, in pertinent part, as follows:

- a) The owner or operator shall inspect the facility for malfunctions and deterioration, operator errors and discharges that may be causing, or may lead to, the conditions listed below. The owner or operator shall conduct these inspections often enough to identify problems in the time to correct them before they harm human health or the environment.
 - 1) Release of hazardous waste constituents to the environment; or

- 2) A threat to human health.
- b) Written Schedule.
- 1) The owner or operator shall develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting or responding to environmental or human health hazards.
 - 2) The owner or operator shall keep this schedule at the facility.
 - 3) The schedule must identify the types of problems (e.g. malfunctions or deterioration) that are to be looked for during the inspection (e.g. inoperative sump pump, leaking fitting, eroding dike, etc.)
 - 4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration, of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in Sections 725.274, 725.293, 725.295, 725.326, 725.360, 725.378, 725.404, 725.447, 725.477, 725.503, 725.933, 725.952, 725.953, 725.958, and 725.984 through 725.990, where applicable.

12. Section 725.274 of the Board Waste Disposal Regulations, 35 Ill.

Adm. Code 725.274, provides as follows:

The owner or operator shall inspect areas where containers are stored at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

13. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to comply with general inspection requirements,

maintain an inspection log or summary and inspect the container storage area in violation of Sections 725.115 and 725.274 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Plaintiff and against Defendant with respect to Count IV:

- A. Finding that Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.115(a) and (b) and 725.274;
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and
- D. Granting such other relief as this Court deems appropriate.

COUNT V

FAILURE TO KEEP AND MAINTAIN PROPER RECORDS AT THE FACILITY

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count V as if fully set forth herein.

11. Section 725.173 of the Board Waste Disposal regulations 35 Ill. Adm. Code 725.173, provides, in part, as follows:

- a) The owner or operator shall keep a written operating record at the facility.
- b) The following information must be recorded as it becomes available and maintained in the operating record until closure of the facility.

- 1) A description and the quantity of each hazardous waste received and the method or methods and date or dates of its treatment, storage or disposal at the facility as required by section 725, Appendix A:
- 2) The location of each hazardous waste within the facility and quantity at each location. For disposal facilities the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities this information must include cross-references to specific manifest document numbers if the waste was accompanied by a manifest;
- 3) Records and results of waste analysis, waste determinations, and trial tests performed as specified in Sections 725.113, 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934, 725.963, 725.984 and 35 Ill. Adm. Code 728.104(a) and 728.107;
- 4) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 725.156(j);
- 5) Records and results of inspections as required by Section 725.115(d) (except these data need be kept only three years);
- 6) Monitoring, testing or analytical data where required by Subpart F of this Part of Sections 725.119, 725.190, 725.194, 725.291, 725.293, 725.295, 725.322, 725.323, 725.326, 725.355, 725.359, 725.360, 725.376, 725.378, 725.380(d)(1), 725.402 through 725.404, 725.447, 725.477, 725.934(c) through (f), 725.935, 725.963(d) through (i), 725.964, and 725.1083 through 725.990;
- 7) All closure cost estimates under Section 725.242 and, for disposal facilities, all post-closure cost estimates under 725.244;
- 8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension of the effective date of any land disposal restriction granted pursuant to 35 Ill Adm. Code 728.105, a petition pursuant to 35 Ill. Adm. Code 728.106 or a certification under 35 Ill. Adm. Code 728.108, and the

applicable notice required of a generator under 35 Ill. Adm. Code 728.107(a);

- 9) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 10) For an on-site treatment facility, the information contained in the notice (except in the manifest number) and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108;
- 11) For an off-site land disposal facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107 or 728.108;
- 12) For an on-site land disposal facility, the information contained in the notice required of the generator or owner or operator of a treatment facility under 35 Ill. Adm. Code 728.107, except for the manifest number, and the certification and demonstration, if applicable, required under 35 Ill. Adm. Code 728.107 or 728.108;
- 13) For an off-site storage facility, a copy of the notice and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108; and,
- 14) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required of the generator or the owner or operator under 35 Ill. Adm. Code 728.107 or 728.108.

12. Section 725.175 or the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 725.175 provides as follows:

The owner or operator shall prepare and submit a single copy of an annual report to the Agency by March 1 of each year. The report form and instructions supplied by the Agency must be used for this report. The annual report must cover facility

activities during the previous calendar year and must include the following information:

- a) The USEPA identification number (Section 725.111), name and address of the facility;
- b) The calendar year covered by the report;
- c) For off-site facilities, the U.S. EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;
- d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities this information must be listed by USEPA identification number of each generator;
- e) The method of treatment, storage or disposal for each hazardous waste;
- f) Monitoring data under Section 725.194(a)(2)(B) and (C) and (b)(2) where required;
- g) The most recent closure cost estimate under Section 725.242 and for disposal facilities the most recent post-closure cost estimate under Section 725.244;
- h) For generators which treat, store or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of the waste generated;
- i) For generators which treat, store or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years, to the extent such information is available for years prior to 1984; and
- j) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

13. Section 725.113(b) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 725.113(b), provides as follows:

b) The owner or operator shall develop and follow a written waste analysis plan that describes the procedures that the owner or operator will carry out to comply with subsection (a) of this section. The owner or operator shall keep this plan at the facility. At a minimum, the plan must specify:

- 1) The parameters for which each hazardous waste, or non-hazardous waste if applicable under Section 725.213(d), will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (a) of this section.
- 2) The test methods that will be used to test for these parameters.
- 3) The sampling method that will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:
 - A) One of the sampling methods described in 35 Ill. Adm. Code 721, Appendix A, or
 - B) An equivalent sampling method.
- 4) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up-to-date.
- 5) For off-site facilities, the waste analysis that hazardous waste generators have agreed to supply.
- 6) Where applicable, the methods that will be used to meet the additional waste analysis requirements for specific waste management methods, as specified in Section 725.300, 725.325, 725.352, 725.373, 725.414, 725.441, 725.475, 725.502, 725.934(d), 725.963(d), and 725.984, and 35 Ill. Adm. Code 728.107.
- 7) For surface impoundments exempted from land disposal restrictions under 35 Ill. Adm. Code 728.104(a), the procedures and schedules for:

- A) The sampling of impoundment contents;
- B) The analysis of test data; and,
- C) The annual removal of residues that are not delisted under 35 Ill. Adm. Code 720.122 or that exhibit a characteristic of hazardous waste and either;
 - i) Do not meet the applicable standards of 35 Ill. Adm. Code 728. Subpart D; or
 - ii) Where no treatment standards have been established: Such residues are prohibited from land disposal under 35 Ill. Adm. Code 728.132 or 728.139.

14. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to have a waste analysis plan available at the site, failed to make waste analysis and dates of waste storage available in the operating record, and failed to submit annual reports in violation of Sections 725.173 and 725.175 of the Board Waste Disposal Regulations.

15. On information and belief, from at least January 12, 1988 until at least November 1, 1993, the Defendant failed to develop and follow a written waste analysis plan in violation of Section 725.113(b) of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Plaintiff and against Defendant with respect to Count V:

A. Finding that Defendant has caused or allowed violation of 35 Ill. Adm. Code 725.113(b), 725.173 and 725.175;

B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and board Waste Disposal Regulations occurred;

C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against Defendant; and

D. Granting such other relief as this Court deems appropriate.

COUNT VI

FAILURE TO TAKE HAZARDOUS WASTE RELEASE CONTAINMENT MEASURES

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this count VI as if fully set forth herein.

11. Section 725.131 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.131, provides as follows:

Facilities must be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil or surface water which could threaten human health or the environment.

12. Section 725.351 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.351, provides as follows:

The owner or operator of a pile containing hazardous waste which could be subject to dispersal by wind must cover or otherwise manage the pile so that wind dispersal is controlled.

13. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to contain releases of foundry sand in violation of Section 725.131 of the Board Waste Disposal Regulations.

14. On information and belief, on or about January 12, 1988, the Defendant failed to protect foundry sand from dispersal by the wind in violation of Section 725.351 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Plaintiff and against Defendant with respect to Count VI:

A. Finding the Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.131 and 725.351;

B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;

C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and

D. Granting such other relief as this Court deems appropriate.

COUNT VII

FAILURE TO MAKE PROPER EMERGENCY AND CONTINGENCY PLAN ARRANGEMENTS

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count VII, as if fully set forth herein.

11. Section 725.135 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.135, provides as follows:

The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment

and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

12. Section 725.137 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code

725.137, provides as follows:

- a) The owner or operator must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations:
 - 1) Arrangements to familiarize police, fire departments and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility and possible evacuation routes;
 - 2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department and agreements with any others to provide support to the primary emergency authority;
 - 3) Agreements with State emergency response teams, emergency response contractors and equipment suppliers; and
 - 4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions or releases at the facility.
- b) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

13. Section 725.151(a) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 725 151(a), provides as follows:

- a) Each owner or operator must have a contingency plan for his facility. The contingency plan must be designed to minimize hazards to human health or the environment from fires, explosions or any unplanned sudden or non-sudden release of

hazardous waste or hazardous waste constituents to air, soil or surface water.

14. Section 725.155 of the Board Waste disposal Regulations, 35 Ill. Adm.

Code 725.155 provides as follows:

At all times, there must be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

15. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant failed to make proper emergency arrangements by failing to provide adequate aisle space, failed to inform local authorities of the presence of hazardous waste, failed to have a contingency plan, and failed to identify a person as emergency coordinator in violation of Sections 725.135, 725.137, 725.151(a) and 725.155 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an order in favor of Plaintiff and against Defendant with respect to Count VII:

A. Finding that Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.135, 725.137, 725.151(a) and 725.155;

B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;

C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against Defendant; and

D. Granting such other relief as this Court deems appropriate.

COUNT VIII

FAILURE TO PROPERLY IMPLEMENT A GROUNDWATER MONITORING PROGRAM

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count VIII, as if fully set forth herein.

11. Section 725.190 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.190, provides, in pertinent part, as follows:

- a) The owner or operator of a surface impoundment, landfill or land treatment facility which is used to manage hazardous waste shall implement a groundwater monitoring program capable of determining the facility's impact on the quality of groundwater in the uppermost aquifer underlying the facility, except as Section 725.101 and paragraph (c) provide otherwise.
- b) Except as paragraphs (c) and (d) provide otherwise, the owner or operator shall install, operate and maintain a groundwater monitoring system which meets the requirements of Section 725.191 and shall comply with Section 725.192 through 725.194. This groundwater monitoring program must be carried out during the active life of the facility and for disposal facilities during the post-closure care period as well.

12. Section 725.194(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 725.194(a) provides as follows:

- a) Unless the groundwater is monitored to satisfy the requirements of Section 725.193 (d)(4), the owner or operator shall:
 - 1) Keep records of the analysis required in Section 725.192(c) and (d), the associated groundwater surface elevations

required in Section 725.192(e) and the evaluations required in Section 725.193(b) throughout the active life of the facility and, for disposal facilities, also throughout the post-closure care period; and

- 2) Report the following groundwater monitoring information to the Agency:
 - A) During the first year when initial background concentrations are being established for the facility: concentrations or values of the parameters listed in Section 725.192(b)(1) for each groundwater monitoring well, within 15 days after completing each quarterly analysis. The owner or operator shall separately identify for each monitoring well any parameters whose concentration or value has been found to exceed the maximum contaminant levels listed in Section 725, Appendix C.
 - B) Annually: concentrations or values of the parameters listed in Section 725.192(b)(3) for each groundwater monitoring well, along with the required evaluations for these parameters under Section 725.193(b). The owner or operator shall separately identify any significant differences from initial background found in the upgradient wells, in accordance with Section 725.193(c)(1). During the active life of the facility, the owner or operator shall submit this information as part of the annual report required under Section 725.175.
 - C) As part of the annual report required under Section 725.175: results of the evaluation of groundwater surface elevations under Section 725.193(f) and a description of the response to the evaluation, where applicable.

13. On information and belief, on or about June 17, 1993, the Defendant failed to install, operate and maintain a groundwater monitoring system, and failed to report groundwater monitoring information in violation of Sections 725.190 and 725.194 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant enter an order in favor of Plaintiff and against Defendant with respect to Count VIII:

- A. Finding that Defendant has caused or allowed violations of 35 Ill. Adm. Code 725.190 and 725.194(a);
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against the Defendant; and
- D. Granting such other relief as this Court deems appropriate.

COUNT IX

CONDUCTING A SOLID WASTE MANAGEMENT SITE WITHOUT A PERMIT

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count IX, as if fully set forth herein.

11. Section 21(d) of the Act, 435 ILCS 5/21(d), provides, in pertinent part as follows:

No person shall:

- (d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:
 - (1) without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; ...

This subsection (d) shall not apply to hazardous waste.

12. Section 807.201 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 807.201 provides, in pertinent part, as follows:

Subject to such exemption as expressly provided in Section 21(e) (Ill. Rev. Stat. 1981, ch. 111 ½, par. 1021(e)) of the Act as to the requirement of obtaining a permit, no person shall cause or allow the development of any new solid waste management site or cause or allow the modification of an existing solid waste management site without a Development Permit issued by the Agency.

13. Section 807.202(a) of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 807.202(a) provides as follows:

- a) New Solid Waste Management Sites.

Subject to such exemption as expressly provided in Section 21(e) of the Act (Ill. Rev. Stat. 1981, ch. 111 ½, par. 1021(e)) as to the requirement of obtaining a permit, no person shall cause or allow the use or operation of any solid waste management site for which a Development Permit is required under Section 807.201 without an Operating Permit issued by the Agency, except for such testing operations as may be authorized by the Development Permit.

14. Section 807.104 of the Board Waste Disposal Regulations, 35 Ill. Adm.

Code 807.104 provides, in pertinent part, the following definitions:

“Site” means any location, place or tract of land used for waste management. A site may include one or more units.

“Solid waste” means waste.

“Solid waste management” means “waste management”.

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, or from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to

permits under 35 Ill. Adm. Code 309.102 or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (42 U.S.C.A. 2011 et seq.) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and regulations thereunder (Ill. Rev. Stat. 1983 ch. 96 1/2, par. 7901.01 et seq. and 62 Ill. Adm. Code 1700 through 1845) (Section 3 (11) of the Act).

“Waste management” means the process of storage, treatment or disposal of waste, not including hauling or transport.

15. On information and belief, from at least April 30, 1991 until at least November 3, 1994, the Defendant caused or allowed the development and operation of a new solid waste management site without a permit in violation Section 21(d) of the Act and Sections 807.201 and 807.202 of the Board Waste Disposal Regulations.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant enter an order in favor of Plaintiff and against Defendant with respect to Count IX:

- A. Finding that Defendant has caused or allowed violations of Section 21(d) of the Act and 35 Ill. Adm. Code 807.201 and 807.202;
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against Defendant; and
- D. Granting such other relief as this Court deems appropriate.

COUNT X

STORAGE AND ABANDONMENT OF WASTE

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count X, as if fully set forth herein.

11. Section 21(e) of the Act, 435 5/21(e), provides, in pertinent part as follows:

No person shall:

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

12. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant disposed, treated, stored and abandoned waste without meeting the requirements of the Act or the regulations in violation of Section 21(e) of the Act.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant enter an order in favor of Plaintiff and against Defendant with respect to Count X:

- A. Finding that Defendant has caused or allowed violations of Section 21(e) of the Act;
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against Defendant; and
- D. Granting such other relief as this Court deems appropriate.

COUNT XI

OPEN DUMPING

1-10. Plaintiff realleges and incorporates by reference paragraphs 1 through 10 as paragraphs 1 through 10 of this Count XI, as if fully set forth herein.

11. Section 21(a) of the Act, 435 5/21(a), provides, in pertinent part as follows:

No person shall:

(a) Cause or allow the open dumping of any waste. . . .

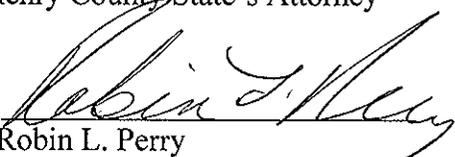
12. On information and belief, from at least January 12, 1988 until at least November 3, 1994, the Defendant caused or allowed the open dumping of waste in violation of Section 21(a) of the Act.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant enter an order in favor of Plaintiff and against Defendant with respect to Count XI:

- A. Finding that Defendant has caused or allowed violations of Section 21(a) of the Act;
- B. Assessing a civil penalty of twenty-five thousand dollars (\$25,000.00) per violation per day against the Defendant for each day said violations of the Act and Board Waste Disposal Regulations occurred;
- C. Taxing all costs in this action, including attorney, expert witness and consultant fees, against Defendant; and
- D. Granting such other relief as this Court deems appropriate.

PEOPLE OF THE STATE OF ILLINOIS,
Ex. Rel. GARY W. PACK
McHenry County State's Attorney

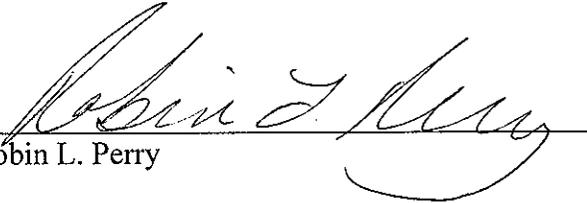
By:


Robin L. Perry
Assistant State's Attorney

GARY W. PACK
McHenry County State's Attorney
Robin L. Perry
Assistant State's Attorney
2200 North Seminary Avenue
Woodstock, IL 60098
(815) 334-4159

CERTIFICATE OF SERVICE

I, Robin L. Perry, an Assistant State's Attorney in this case, do certify that I caused to be mailed this 30th day of August, 2000, the foregoing Notice of Filing and Complaint upon the persons listed on said Notice by certified mail in an envelope bearing sufficient postage with the United States Postal Service located at 1050 Country Club Road, Woodstock, Illinois 60098.


Robin L. Perry