

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney General)
of the State of Illinois,)

Complainant,)

v.)

SURFACE MANUFACTURING COMPANY,)
an Illinois corporation,)

Respondent.)

No.

(Enforcement – Water)

NOTICE OF FILING

TO: See attached service list (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have electronically filed with the Office of the Clerk of the Pollution Control Board the following Complaint, a copy of which is attached and hereby served on you.

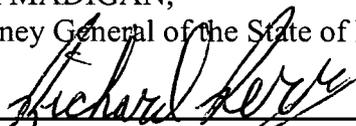
Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 et seq.] to correct the alleged pollution.

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN,
Attorney General of the State of Illinois

By:



RICHARD A. PERRY

Assistant Attorney General

Environmental Bureau

69 W. Washington St., 18th Floor

Chicago, Illinois 60602

(312) 814-3776

3. At all times relevant to this Complaint, Surface Manufacturing Company ("SMC" or the "Respondent") was and is an Illinois corporation in good standing with the State of Illinois.

4. At all times relevant to this Complaint, the Respondent owned and operated a metal finishing operation located at 135 South 4th Street, Village of Capron, Boone County, Illinois (the "Facility").

5. On May 7, 2007, the Illinois EPA sent a violation notice to the Respondent alleging the violation of Section 12(a) of the Act described herein, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006). On July 5, 2007, the Illinois EPA sent a notice to the Respondent rejecting its proposed compliance commitment agreement. On August 17, 2007, the Illinois EPA sent a notice of intent to pursue legal action to the Respondent. The Illinois EPA met with representatives of the Respondent on September 11, 2007.

6. During a period of time beginning no later than March 2, 2006, and continuing until at least December 24, 2006, and on other dates better known to the Respondent, SMC discharged pretreated wastewater from its metal finishing processes (the "wastewater") into a sewer, which conveyed the wastewater into the Village of Capron's publicly owned treatment works (the "Capron POTW").

7. The Respondent's discharges at the Facility are subject to the Act and the rules and regulations promulgated by the Illinois Pollution Control Board (the "Board"). The Board's regulations regarding water pollution are found in Title 35, Subtitle C, Chapter I of the Illinois Administrative Code ("Board Water Pollution Regulations").

8. On March 18, 2003, the Illinois EPA issued to the Respondent permit

number 2003-EO-2930 to operate its pre-treatment system (the "Permit"). The Permit is still in effect.

9. The Permit allowed the Respondent to discharge the wastewater into the Capron POTW, and set specific limits on the concentrations of certain pollutants that could be present in the wastewater.

10. The Permit provided the daily limit for the concentration of chromium in the wastewater, which is: 2.77 milligrams of chromium per liter of wastewater.

11. On at least fifteen (15) separate dates between March 2, 2006 and December 24, 2006, and on other dates better known to the Respondent, the Respondent discharged into the Capron POTW wastewater with a concentration of chromium that exceeded 2.77 milligrams per liter, as follows:

CHROMIUM CONCENTRATION

Permit Limit - maximum daily chromium concentration: 2.77 mg/liter

<u>DATE</u>	<u>DAILY CONCENTRATION</u>
03/02/06	3.5
05/08/06	6.8
05/09/06	6.9
05/25/06	3.1
07/07/06	4.6
07/13/06	2.8
08/21/06	9.1
08/23/06	4.9
08/29/06	2.8
09/26/06	8.7
12/20/06	15.0
12/21/06	7.0
12/22/06	8.2
12/24/06	4.3

12. The Capron POTW was not equipped to precipitate out metals such as

chromium from its influent.

13. Section 12(a) of the Act, 415 ILCS 5/12(a)(2006), 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.

14. Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), provides the following definition:

“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.

15. SMC is a corporation, and is therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

16. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), provides the following definition:

“Contaminant” is any solid, liquid or gaseous matter, any odor, or any form of energy, from whatever source.

17. The wastewater, and the chromium contained therein, are “contaminants” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

18. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), provides the following definition:

“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.

19. By discharging chromium in excess of its Permit limit into the Capron POTW, the Respondent threatened the discharge of contaminants into the environment so as to tend to cause water pollution in Illinois, in violation of Section 12(a) of the Act, 415 ILCS 5/12(a)(2006).

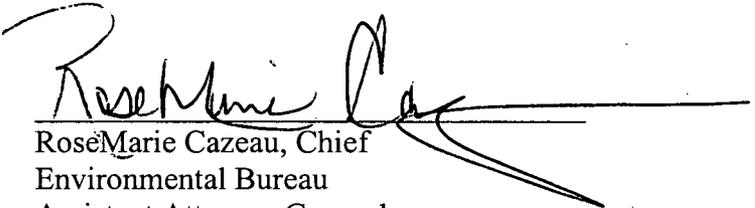
WHEREFORE, the Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, SMC, on this Count I:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a)(2006);
3. Ordering the Respondent to cease and desist from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a)(2006);
4. Assessing against each of the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) against each Respondent for each day of violation;
5. Ordering the Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f)(2006), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN,
Attorney General of the State of Illinois,

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

By:

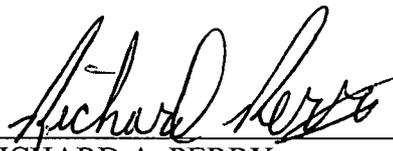

RoseMarie Cazeau, Chief
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Assistant Attorney General

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CERTIFICATE OF SERVICE

I, RICHARD A. PERRY, an Assistant Attorney General, do certify that I caused to be mailed this 27th day of May, 2008, the foregoing Complaint and Notice of Filing upon the persons listed on said notice, by certified mail.



RICHARD A. PERRY
Assistant Attorney General
Environmental Bureau
69 West Washington, 18th Floor
Chicago, IL 60602
312-814-2069

SERVICE LIST

Surface Manufacturing Company
c/o Patrick Bryan, Registered Agent
135 S. 4th Street
Capron, Illinois 61012

Surface Manufacturing Company
c/o Patrick Bryan, President
W5608 Stateline Road
Walworth, WI 53184