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JAN 30 2009

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 28, 2008

PCB09-54

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. Bill Woods, d/b/a American Asphalt Seal Coating***

Dear Clerk:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in cursive script that reads "Michael D. Mankowski".

Michael D. Mankowski
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

MDM/pk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JAN 30 2009

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
BILL WOODS, an individual, d/b/a)
AMERICAN ASPHALT SEAL COATING,)
)
Respondent.)

PCB No. 09-54
(Water Enforcement)

NOTICE OF FILING

To: Bill Woods
d/b/a American Asphalt Seal Coating
102 Whitsell Way, Apt. 103
Granite City, IL 62040

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon 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 this 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.

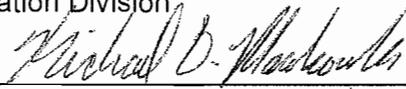
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2006), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
MICHAEL D. MANKOWSKI
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 28, 2009

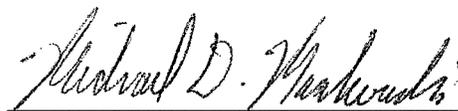
CERTIFICATE OF SERVICE

I hereby certify that I did on January 28, 2008, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Bill Woods
d/b/a American Asphalt Seal Coating
102 Whitsell Way, Apt. 103
Granite City, IL 62040

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



MICHAEL D. MANKOWSKI
Assistant Attorney General

This filing is submitted on recycled paper.

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 BILL WOODS, an individual, d/b/a)
 AMERICAN ASPHALT SEAL COATING,)
)
 Respondent.)

PCB No. 0954
(Water Enforcement)

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, MICHAEL D. MANKOWSKI, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

Respectfully submitted,

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

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

BY: Michael D. Mankowski
MICHAEL D. MANKOWSKI
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 28, 2008

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STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.)
)
 BILL WOODS, an individual, D/B/A AMERICAN)
 ASPHALT SEAL COATING,)
)
 Respondent.)

PCB No. 0954
(Water Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent, BILL WOODS, an individual D/B/A AMERICAN ASPHALT SEAL COATING as follows:

COUNT I

WATER POLLUTION VIOLATION

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2006), and charged *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. This Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2006), after providing the Respondent with notice and the opportunity for a meeting with the Illinois EPA.

4. The Respondent, Bill Woods d/b/a American Asphalt Seal Coating ("American Asphalt"), at all times relevant to this Complaint, owned and operated an asphalt sealing company located in Troy, Madison County, Illinois.

5. On August 19, 2006, or a date better known to Respondent, the Respondent performed asphalt sealing at the Cope Marine parking lot at 1725 W. Highway 50 in O'Fallon, St. Clair County, Illinois ("site"). The site is located next to a road side drainage ditch on Highway 50 ("road side ditch") which discharges into Olges Creek.

6. On August 19, 2006, or a date better known to the Respondent, the Respondent sealed the asphalt parking lot at the Cope Martine site prior to a rain event.

7. Section 12 of the Act, 415 ILCS 5/12(a) (2006), provides, in pertinent part, 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;

8. Section 3.165 of the Act, 415 ILCS 5/3.165 (2006), defines "contaminant" as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

9. Asphalt sealant is a "contaminant" as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2006).

10. Section 3.545 of the Act, 415 ILCS 5/3.545 (2006), defines "water pollution" 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.

11. Section 3.550 of the Act, 415 ILCS 5/3.550 (2006), defines "waters" 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.

12. The roadside ditch and Ogles Creek are each "waters," as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2006).

13. Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, prohibits offensive conditions in waters of the State:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal, color or turbidity of other than natural origin. . . .

14. On information and belief, during the rain event, the asphalt sealant ran off the parking lot and into the road side ditch.

15. On August 20, 2006, the Illinois EPA inspected the road side ditch.

16. On August 20, 2006, the Illinois EPA observed a rainbow sheen on the soil of the banks that was present along with a black stain at the bottom of the ditch which continued downstream for approximately two blocks.

17. The source of the material in the road side ditch was the Cope Marine site.

18. On August 21, 2006, dead crayfish were present in the roadside ditch.

19. On August 22, 2006, the Illinois EPA performed a follow up inspection of the roadside ditch.

20. On August 22, 2006, the road side ditch between Brookside and Creekview Drives was dry and had a seal coating oil stain in the sediment.

21. On August 23, 2006, the Illinois EPA returned to the road side ditch.

22. On August 23, 2006, approximately 150 feet of the road side ditch contained standing water which had a very slight sheen on its surface and approximately 1,300 feet of the ditch contained black residue at the bottom.

23. Additionally, two catch basins that discharge into the road side ditch contained a blackish residue.

24. The Respondent caused, allowed or threatened the discharge of asphalt sealant from the Cope Marine site parking lot into waters of the State so as to cause or tend to cause offensive conditions in the road side ditch which is an unnamed tributary of Olges Creek in violation of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

25. By violating the water quality standard of Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203, the Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2006), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, BILL WOODS D/B/A AMERICAN ASPHALT SEAL COATING:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against

Respondent for each violation of the Act and pertinent Board regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day that the violations continued; and

- E. Granting such other relief as the Board may deem appropriate.

COUNT II

WATER POLLUTION HAZARDS VIOLATIONS

1-24. Complainant realleges and incorporates herein by reference paragraphs 1 through 6 and paragraphs 8 through 25 of Count I as paragraphs 1 through 24 of this Count II .

25. Section 12 of the Act, 415 ILCS 5/12(d) (2006), provides, in pertinent part, as follows:

No person shall:

- (d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

26. By depositing a contaminant upon the land in such place and manner so as to create a water pollution hazard, the Respondent has violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2006), and Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, BILL WOODS D/B/A AMERICAN ASPHALT SEAL COATING:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act

and associated regulations;

D. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation of the Act and pertinent Board regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day for each day that the violations continued; and

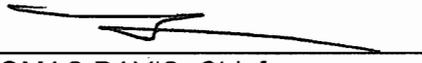
E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL
MICHAEL D. MANKOWSKI
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/ 557-0586
Dated: 1/12/09