

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 10-
)	(Enforcement)
BYRON WARD, d/b/a WARD ELECTRIC,)	
and TIMOTHY JAMES,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on March 19, 2010, I electronically filed 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 (2008), to correct the pollution alleged in the Complaint filed in this case.

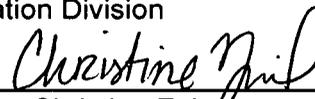
Respectfully submitted,

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:



Christine Zeivel
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 19, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on March 19, 2010, cause to be served by Certified Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, APPEARANCE and COMPLAINT upon the persons listed on the Service List.



Christine Zeivel
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Byron Ward
d/b/a Ward Electric
2237 County Road 1975 East
Crossville, IL 62827

Timothy James
203 South 8th Street
Carmi, IL 62821

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Complainant,)	
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vs.)	PCB No. 10-
)	(Enforcement)
BYRON WARD, d/b/a WARD ELECTRIC,)	
and TIMOTHY JAMES,)	
)	
Respondent.)	

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, CHRISTINE ZEIVEL, Assistant Attorney General of the State of Illinois, hereby enters her 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: Christine Zeivel
Christine Zeivel
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 19, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
<u>ex rel.</u> LISA MADIGAN, Attorney)	
General of the State of Illinois,)	
)	
Complainant,)	
)	
vs.)	PCB No. 10-
)	(Enforcement)
BYRON WARD d/b/a WARD ELECTRIC)	
and TIMOTHY JAMES,)	
)	
Respondents.)	

COMPLAINT

The 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, complain of the Respondents, BYRON WARD d/b/a WARD ELECTRIC and TIMOTHY JAMES, as follows:

COUNT I
OPEN DUMPING VIOLATIONS

1. This action is brought on behalf of the People of the State of Illinois, by Lisa Madigan, the Attorney General of the State of Illinois, 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 (2008).

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 (2008), and is charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, the Respondent, TIMOTHY JAMES, resided at a parcel of property located at 202 Fackney Street in Carmi, White County, Illinois ("James residence").

4. The Respondent, BYRON WARD, is a licensed electrician doing business under the name of WARD ELECTRIC, an entity that is not registered to do business in the State of Illinois.

5. On or before December 20, 2007, on a date better known to the Respondents, the Respondent, BYRON WARD, agreed to give six (6) old electrical transformers that he had collected on his property, with dielectric oil still in them, to the Respondent, TIMOTHY JAMES, to be scrapped for metal.

6. On or before December 20, 2007, on a date better known to the Respondents, the Respondent, TIMOTHY JAMES, transported the six electrical transformers to the James residence using a pickup truck owned by a friend.

7. On or before December 20, 2007, on a date better known to the Respondents, the Respondent, TIMOTHY JAMES, spilled approximately sixty (60) gallons of PCB-laden oil onto the ground of the James residence. A pickup truck bed and floorboard, concrete porch, and backhoe bucket were also contaminated.

8. Polychlorinated biphenyls, or PCBs, are persistent organic pollutants that are known to cause neurobehavioral and immunological changes in children, skin conditions in adults, and cancer in animals.

9. On January 3, 2008, the Illinois EPA inspected the James residence. On that date, three transformers were present on the back of a truck trailer and the remaining transformers were present on the ground in the backyard. Straw was also present on the ground at the site of the oil spill.

10. On January 3, 2008, Illinois EPA collected several oil samples from the James residence. Results indicate that five of the transformers contained oil with PCB concentrations ranging from 260 ug/kg to 5,600,000 ug/kg. Soil samples collected also revealed PCB contamination of the soil in backyard of the James residence and the pickup truck.

11. Between February 22, 2008 and February 26, 2008, at the request of the Respondent, BYRON WARD, Environmental Technologies, Inc. performed remedial action at the James residence. Specifically, the contaminated soil was excavated and placed in DOT approved drums, along with the transformers. The pickup truck bed and floorboard, concrete porch, backhoe bucket and any other equipment believed to have come into contact with PCB-containing oil was also decontaminated.

12. On April 23, 2008, the Illinois EPA reinspected the James residence. On that date, remedial work was complete and fifty-six (56) 55-gallon drums filled with PCB-contaminated soil and waste were present at the James residence.

13. On August 8, 2008, the Illinois EPA inspected the James residence. On or before that date, Fred Schultz, the owner of the James residence, paid for the disposal of the drums of PCB-contaminated waste, which were transported to a TCI PCB disposal facility in Alabama. Upon inspection, all fifty-six (56) drums of PCB-contaminated soil were no longer present.

14. Section 21 of the Act, 415 ILCS 5/21 (2008), provides, in pertinent part, as follows:

No person shall:

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

* * *

e. Dispose, treat, store or abandon any waste . . . except at a site which meets the requirements of this Act and of regulations and standards thereunder.

* * *

p. In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

1. litter;

* * *

15. Section 3.305 of the Act, 415 ILCS 5/3.305 (2008), provides as follows:

"Open dumping" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

16. Section 3.385 of the Act, 415 ILCS 5/3.385 (2008), provides as follows:

"Refuse" means waste.

17. Section 3.535 of the Act, 415 ILCS 5/3.535 (2008), provides as follows:

"Waste" means any garbage . . . or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities.

* * *

18. On or before December 20, 2007, and on a date better to the Respondents, TIMOTHY JAMES and BYRON WARD d/b/a WARD ELECTRIC, caused or allowed the open dumping of refuse and waste at the James residence in manner that resulted in litter.

19. The James residence does not meet the requirements of the Act, and the regulations and standards thereunder, for a waste disposal site.

20. By causing or allowing the open dumping of refuse and waste in a manner that resulted in litter, and by disposing or abandoning wastes at a site that does not meet the requirements of the Act and the regulations and standards thereunder, the Respondents, TIMOTHY JAMES and BYRON WARD d/b/a WARD ELECTRIC, have violated Sections 21(a), 21(e), and 21(p)(1) of the Act, 415 ILCS 5/21(a), (e) and (p)(1) (2008).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondents, TIMOTHY JAMES and BYRON WARD d/b/a WARD ELECTRIC:

- A. Authorizing a hearing in this matter at which time the Respondents will be required to answer the allegations herein;
- B. Finding that Respondents have violated the Act as alleged herein;
- C. Ordering Respondents to cease and desist from any further violations of the Act and associated regulations;
- D. Assessing against Respondents a civil penalty of fifty thousand dollars (\$50,000) for each violation of the Act, and an additional penalty of ten thousand dollars (\$10,000) for each day during which each violation continued thereafter; and
- E. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. 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:

Christine Zeivel, AAG
500 South Second Street
Springfield, Illinois 62706

Dated: 3/18/10