

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 2011-
)	(Enforcement)
NORTHERN ILLINOIS UNIVERSITY)	
)	
Respondent.)	

NOTICE OF FILING

TO: Ms. Victoria Gillio	Mr. Dennis Brown, Esq.
Acting Counsel	Assistant Counsel
Northern Illinois University	Illinois Environmental Protection Agency
University Legal Services	1021 North Grand Avenue East
Altgeld Hall 330	Springfield, IL 62794-9276
Dekalb, IL 60115	

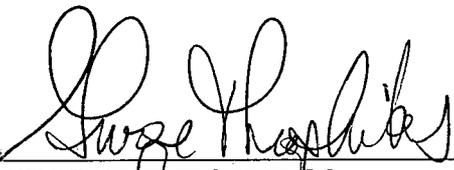
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "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."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY: 

GEORGE THEOPHILOS
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Fl.
Chicago, IL 60602
(312) 814-6986

DATE: March 31, 2011

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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COMPLAINT FOR CIVIL PENALTIES AND OTHER RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, NORTHERN ILLINOIS UNIVERSITY, as follows:

COUNT I

OPERATING WITHOUT A CAAPP PERMIT

1. This complaint is brought on behalf of 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 ("Illinois EPA").
2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/4 (2010).
3. This complaint is brought pursuant to Sections 42(d) and (e) of the Act, 415 ILCS 5/42(d) and (e) (2010), and is an action to restrain ongoing violations of the Act and for civil penalties.
4. At all times relevant to this Complaint, Respondent Northern Illinois University ("NIU"), a public teaching and research institution, was the owner and operator of Northern Illinois University located at 100 Stadium Drive, DeKalb, DeKalb County, Illinois ("Source").

5. On August 15, 1997, the Illinois EPA issued to Respondent, Clean Air Act Permit Program ("CAAPP") permit number 95060027 ("1997 CAAPP Permit"), pursuant to the Act, 415 ILCS 5/39.5 (2010). The expiration date of the 1997 CAAPP Permit was August 15, 2002.

6. The 1997 CAAPP Permit stated that Respondent was a major source of NOx emissions generated by East and West Steam plants comprised of nine natural gas-fired boilers used to produce steam for the complex. The permit also stated that Respondent operates a gasoline storage tank for dispensing operations.

7. On December 19, 2002, the Illinois EPA received a CAAPP renewal application for permit number 95060027 from Respondent. The Illinois EPA granted the permit renewal on February 9, 2004 ("2004 CAAPP Permit"). The expiration date of the 2004 CAAPP Permit was February 8, 2009.

8. The 2004 CAAPP Permit stated that Respondent was a major source of NOx emissions generated by East and West Steam plants comprised of nine natural gas-fired boilers used to produce steam for the complex.

9. On April 5, 2007, the Illinois EPA issued a revision of Respondent's permit number 95060027 to include the operation of additional natural gas-fired boilers operated in the Convocation Center and Monsanto Building.

10. On August 30, 2007, the Illinois EPA sent a letter to Respondent stating that CAAPP permit number 95060027 would expire on February 8, 2009.

11. The Source is subject to the CAAPP permit requirements prescribed by the Act.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), 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.

13. Respondent NIU is a person as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

14. Section 39.5(6) of the Act, 415 ILCS 5/39.5(6) (2010), provides as follows:

Prohibitions

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements.

* * *

b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

15. Section 39.5(1) of the Act, 415 ILCS 5/39.5(1) (2010), provides the following definitions:

“CAAPP” means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

* * *

“CAAPP Permit” means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

“CAAPP source” means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

* * *

“Owner or operator” means any person who owns, leases, operates, controls, or supervises a stationary source.

16. Respondent is an owner or operator of a CAAPP source, and obtained its 1997 CAAPP Permit and 2004 CAAPP Permit pursuant to permit requirements set forth in Section 39.5 of the Act, 415 ILCS 5/39.5 (2010).

17. Sections 39.5(5)(n) and (o) of the Act, 415 ILCS 5/39.5(5)(n) and (o) (2010), provide as follows:

- n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.
- o. The terms and conditions of a CAAPP permit shall remain in effect until the issuance of a CAAPP renewal permit provided a timely and complete CAAPP application has been submitted.

18. Respondent was required to submit its CAAPP permit renewal application no later than May 8, 2008, nine months prior to the expiration of its 2004 CAAPP Permit.

19. On November 19, 2009, an Illinois EPA conducted a routine inspection ("November 19 Inspection") of the Source and determined that since February 8, 2009, the Source was operating without the required CAAPP permit.

20. On March 18, 2010, the Illinois EPA sent a violation notice ("VN") letter to Respondent citing a violation of the Act resulting from operation of a major source without first timely applying for and obtaining a CAAPP permit issued by the Illinois EPA.

21. On April 27, 2010, the Illinois EPA received Respondent's CAAPP permit renewal application, approximately 23 months after the prescribed time period for the submission of a CAAPP permit renewal application.

22. By failing to timely submit its CAAPP permit renewal application, Respondent operated without the benefit of a CAAPP permit shield authorized by 415 ILCS 39.5(5)(l) (2010). Accordingly, NIU failed to timely obtain from the Illinois EPA the requisite CAAPP permit, prior to February 8, 2009, and now operates a CAAPP Source unpermitted.

23. By operating a CAAPP source without a CAAPP permit, Respondent has and continues to violate Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter a judgment in favor of Complainant and against the Respondent, NORTHERN ILLINOIS UNIVERSITY on 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 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);

3. Ordering the Respondent to cease and desist from any further violation of Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2010);

4. Ordering Respondent to immediately take the necessary corrective action that will result in a final and permanent abatement of the violations of the Act cited above, including ordering it to operate the Source consistent with the terms of its expired 2004 CAAPP Permit numbered 95060027 unless and until Respondent is issued a new operating permit by the Illinois EPA, at which time, Respondent shall operate the Source in compliance with the new operating permit;

5. Assessing against the Respondent a civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

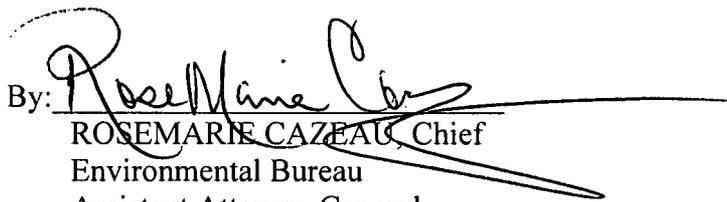
6. Taxing all costs in this action pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), including attorney, expert witness and consultant fees, against the Respondent; and

7. Granting such other relief as the Board deems appropriate and just.

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:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

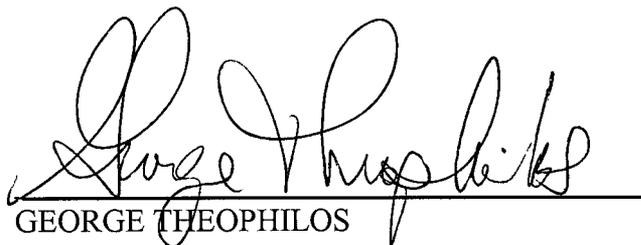
Of Counsel:

George D. Theophilos
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(312) 814-6986

CERTIFICATE OF SERVICE

I, GEORGE THEOPHILOS, an Assistant Attorney General, do certify that I caused to be served on this 31st day of March 2011, the foregoing Notice of Filing, Complaint, and a Certificate of Service, by U.S. Certified Mail (return receipt requested), upon the following person:

Ms. Victoria Gillio
Acting Counsel
Northern Illinois University
University Legal Services
Altgeld Hall 330
DeKalb, IL 60115


GEORGE THEOPHILOS