

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
TAYLOR BROTHERS WELDING)
SERVICE, INC., an Illinois corporation,)
)
Respondent.)

PCB NO.
(Enforcement - Land)

NOTICE OF ELECTRONIC FILING

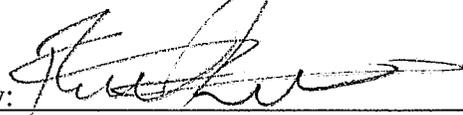
PLEASE TAKE NOTICE that today, August 28, 2014, I have electronically filed with the Office of the Illinois Pollution Control Board the following Complaint, a true and correct copy of which is hereto attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that your failure to file an answer to this Complaint within 60 (sixty) 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 (20ILCS 3515/1 *et seq.*) to correct the alleged pollution.

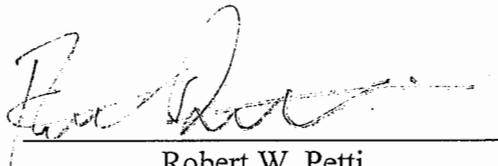
PEOPLE OF THE STATE OF ILLINOIS,
ex. rel. LISA MADIGAN, Attorney General
of the State of Illinois

By: 

Robert W. Petti
Assistant Attorney General
Environmental Bureau
69 W. Washington Street, 18th Floor
Chicago, IL 60602
(312) 814-02069

CERTIFICATE OF SERVICE

I, Robert W. Petti, Assistant Attorney General, do hereby certify that I mailed a copy of the attached Notice of Electronic Filing and the Complaint filed in the above referenced case on the Respondent, Taylor Brothers Welding Service, Inc., 234 E. Main Street, Tamaroa, IL 62888, by certified mail with return receipt requested, today, August 28, 2014, prior to the hour of 5:00 p.m.

A handwritten signature in black ink, appearing to read "Robert W. Petti", is written over a horizontal line.

Robert W. Petti

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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, TAYLOR BROTHERS WELDING SERVICE, INC., as follows:

COUNT I

OPEN DUMPING

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 (2012).

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 (2012), and charged with, *inter alia*, the duty of enforcing the Act.

3. At all times relevant to this complaint, Respondent, Taylor Brothers Welding Service, Inc. ("Taylor Brothers" or "Respondent"), has been and is an Illinois corporation in good standing.

4. At all times relevant to this complaint, Taylor Brothers has owned and operated a welding services business located at 234 E. Main Street, Tamaroa, Perry County, Illinois (the "Site").

5. On February 5, 2013, Illinois EPA performed an inspection of the Site accompanied by an employee of Taylor Brothers (the "2013 Inspection").

6. At the time of the 2013 Inspection, approximately 120 fifty-five gallon drums containing waste oil, lubricant, or grease were present at the Site.

7. At the time the 2013 Inspection, a majority of the drums were either bulging, missing lids, or contained holes.

8. At the time of the 2013 Inspection, many of the drums at the Site did not have labels identifying their contents.

9. At the time of the 2013 Inspection, spillage from the drums was present on the ground throughout the area where the drums were stored at the Site.

10. Section 21(a) of the Act, 415 ILCS 5/21(a) (2012), provides as follows:

No person shall:

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

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2012), provides the following definition:

"Person" means 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.

12. Taylor Brothers, a corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2012).

13. Section 3.535 of the Act, 415 ILCS 5/3.535 (2012), defines “waste,” in pertinent part, 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 ...

14. The approximately 120 drums, many of which were in disrepair, the waste oil, lubricant or grease, and liquids on the ground identified in paragraphs 6 and 9, respectively, are “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2012).

15. Section 3.185 of the Act, 415 ILCS 5/3.185 (2012), contains the following definition:

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

16. Section 3.460 of the Act, 415 ILCS 5/3.460 (2012), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

17. Respondent caused or allowed the discharge, deposit, dumping, spilling or leaking of the waste liquids from the drums identified in paragraphs 6 and 9, into or on land in a manner that exposed the waste to air, water, and to the environment. The Site is therefore a “disposal site” as defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 3.460 (2012).

18. Section 3.305 of the Act, 415 ILCS 5/3.305 (2012), contains the following definition:

“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.

19. Section 3.385 of the Act, 415 ILCS 5/3.385 (2012), contains the following definition:

“Refuse” means waste.

20. Section 3.445 of the Act, 415 ILCS 5/3.445 (2012), contains the following definition:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day’s operation, or by such other methods and intervals as the Board may provide by regulations.

21. At all times relevant to this Complaint, no portion of the Site has ever been covered by an Illinois EPA issued permit for the storage, treatment, or disposal of waste, and thus the Site did not fulfill the requirements of a “sanitary landfill” as defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2012).

22. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent caused or allowed the drums and liquids identified in paragraphs 6 and 9, to be placed, deposited, or otherwise consolidated at the Site, and thereby caused or allowed the open dumping of waste.

23. By causing or allowing the open dumping of waste at the Site, Respondent thereby violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, Taylor Brothers Welding Service, Inc.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2012);
3. Ordering Respondent to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21 (a) (2012);
4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;
5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board may deem appropriate.

COUNT II

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-19. The Complainant realleges and incorporates by reference herein paragraphs 1 through 9, 11 through 17, and 19 through 21 of Count I as paragraphs 1 through 19 of this Count II.

20. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012), 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.

21. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent disposed of the drums containing waste oil, lubricant or grease, and waste liquids listed in paragraphs 6 and 9 on the ground at the Site, and thereby conducted a waste disposal operation.

22. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent conducted a waste disposal operation without a permit issued by the Illinois EPA.

23. By conducting a waste disposal operation at the Site without a permit issued by the Illinois EPA, Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, Taylor Brothers Welding Service, Inc.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);

3. Ordering Respondent to cease and desist from any further violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2012);

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT III

DEVELOPING AND OPERATING A WASTE DISPOSAL OPERATION IN VIOLATION OF BOARD REGULATIONS

1-21. The Complainant realleges and incorporates by reference herein paragraphs 1 through 9, 11 through 17, and 19 through 21 of Count I, and paragraphs 21 and 22 of Count II, as paragraphs 1 through 21 of this Count III.

22. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012), provides as follows:

No person shall:

* * *

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

* * *

2. in violation of regulations or standards adopted by the Board under this Act...

23. Section 812.101(a) of the Illinois Pollution Control Board ("Board") Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), provides as follows:

- (a) All persons, except those specifically exempted by Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1021(d)) [415 ILCS 5/21(d)] shall submit to the Agency an application for a permit to develop and operate a landfill. The applications must contain the information required by this Subpart and by Section 39(a) of the Act, except as otherwise provided in 35 Ill. Adm. Code 817.

24. Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103, provides the following definition:

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

25. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent placed and accumulated waste on the ground at the Site over time for disposal.

26. The Site where Respondent placed and accumulated waste on the ground for disposal constitutes a "landfill" as that term is defined in Section 810.103 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 810.103.

27. Respondent is not specifically exempted from the landfill permitting requirements by Section 21(d) of the Act, 415 ILCS 5/21(d) (2012).

28. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent conducted a waste disposal operation that constituted a

landfill without applying for a permit to develop or operate a landfill in violation of Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a), and thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, Taylor Brothers Welding Service, Inc.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);

3. Ordering Respondent to cease and desist from any further violations of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2012), and Section 812.101(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);

4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;

5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IV

WASTE DISPOSAL AT A SITE

THAT DOES NOT MEET THE REQUIREMENTS OF THE ACT

1-25. The Complainant realleges and incorporates by reference herein paragraphs 1 through 9, 11 through 17, and 19 through 21 of Count I, paragraphs 21 and 22 of Count II, and paragraphs 23 through 26 of Count III as paragraphs 1 through 25 of this Count IV.

26. Section 21(e) of the Act, 415 ILCS 5/21(e) (2012), provides, 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.

27. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, Respondent disposed of the drums containing waste oil, lubricant or grease, and waste liquids identified in paragraphs 6 and 9 at the Site without a permit issued by the Illinois EPA for the disposal of waste, and thereby disposed of waste at a facility which does not meet the requirements of the Act.

28. From at least February 5, 2013, through September 30, 2013, or on dates better known to the Respondent, by disposing of waste at a facility which does not meet the requirements of the Act, Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2012).

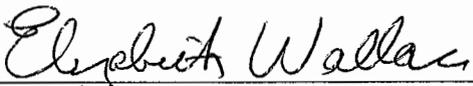
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, Taylor Brothers Welding Service, Inc.:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2012);
3. Ordering Respondent to cease and desist from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2012);
4. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2012), imposing a civil penalty of fifty thousand dollars (\$50,000) for each violation and an additional penalty of ten thousand dollars (\$10,000) for each day of violation;
5. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2012), taxing all costs against Respondent, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board may deem appropriate.

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: 
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