

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement)
PITCHFORD ELEVATOR COMPANY, an)	
Illinois corporation,)	
)	
Respondent.)	

NOTICE OF FILING

To: Attached Service List

PLEASE TAKE NOTICE that on July 9, 2019, I filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby 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 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.

FURTHER, please take note that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board by electronic filing the following Notice of Filing and Complaint, copies of which are attached and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL, ATTORNEY GENERAL

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

BY: s/Christina Nannini
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Dated: July 9, 2019.

THIS FILING IS SUBMITTED ON RECYCLED PAPER.

Service List

For the Respondent

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
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Complainant,)	
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v.)	PCB No. 2019-
)	
PITCHFORD ELEVATOR COMPANY,)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency, complains of Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation, as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Count is brought on behalf of the People of the State of Illinois, by KWAME RAOUL, the Attorney General of the State of Illinois, against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation, on his own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA").

2. 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 (2016), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board ("Board") is an independent board created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. Respondent Pitchford Elevator Company ("Respondent") is an Illinois corporation and full-service grain elevator, agrichemical sales, seed sales, and application company, authorized and in good standing to conduct business in the State of Illinois. The registered agent for Pitchford Elevator Company is Brian Grathwohl, 880 South Locust Street, Richview, Illinois, 62877.

5. Pitchford Elevator Company is located at 880 South Locust Street, Richview, Illinois, 62877 ("Site").

6. On September 14, 2017, Illinois EPA inspected the Site.

7. On September 14, 2017, at a field on the eastern side of the plant, Illinois EPA observed a pit approximately ten cubic feet containing corn, seed bags, boxes, signs, and other trash. The side walls of the pit were charred from previous fires.

8. On September 14, 2017, Illinois EPA further observed tires protruding from the west side wall of the pit. Respondent's employee stated that bad seed, grain, seed bags, and pallets were regularly burned in pits at the Site.

9. On September 14, 2017, Illinois EPA further observed a large pile of dirt on the northeast edge of the field with little vegetation. Along the north edge of the field in the woods Illinois EPA observed three old empty agri-chemical tanks, old applicator frames, and other scrap metal.

10. On September 14, 2017, Illinois EPA further observed, dumped in a drainage way, three large vertical metal tanks each approximately 10,000 gallons, large piles of concrete,

and treated seed.

11. On September 14, 2017, Illinois EPA further observed several plastic totes in metal cages, an area with burnt residue on the ground, and two tote cages that appeared to be burnt.

12. On September 28, 2017, Illinois EPA conducted a follow-up inspection.

13. On September 28, 2017, Illinois EPA observed over 200 chemical totes and shuttles. At least 31 totes contained pesticide rinse water and the full and empty totes were mixed together.

14. On September 28, 2017, Illinois EPA again noted the pit identified on September 14, 2017 and in the pit observed two tires, additional trash, and burn barrel residue.

15. On September 28, 2017, Illinois EPA further observed an empty pesticide container and in the woods behind the pile eight 55-gallon drums. Each drum appeared to contain liquid and the drums were on their side. One drum had a hole in the bottom and one had leaked onto the ground.

16. On January 10, 2018, February 1, 2018, and February 6, 2018, Respondent's personnel dug a total of twenty seven test pits that unearthed approximately sixty burned and waste tires, burned waste, metal parts, dimensional lumber, plastic, cans, bottles, paper, a large grain truck tarp, and other trash totaling approximately 56 tons of waste.

17. Section 21(a) of the Act, 415 ILCS 5/21(a) (2016), provides as follows:

No person shall:

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

18. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides as follows:

"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.

19. Respondent is a corporation and therefore a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

20. Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), provides, 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 ...

21. Section 3.385 of the Act, 415 ILCS 5/3.385 (2016), provides as follows:

"Refuse" means waste.

22. The items observed on September 14, 2017 and September 28, 2017, including but not limited to, seed bags, boxes, signs, bad seed, pallets, empty agri-chemical tanks, old applicator frames, scrap metal, large vertical metal tanks, plastic totes in metal cages (with some containing pesticide rinse water), tires, and 55-gallon drums are "discarded material," and therefore "waste" as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), and are therefore also "refuse" as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2016).

23. Section 3.305 of the Act, 415 ILCS 5/3.305 (2016), 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.

24. Section 3.460 of the Act, 415 ILCS 5/3.460 (2016), 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.

25. The Site is a "site" as that term is defined in Section 3.460 of the Act, 415 ILCS 5/3.460 (2016).

26. Section 3.185 of the Act, 415 ILCS 5/3.185 (2016), provides as follows:

"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.

27. Waste was discharged, deposited, dumped, spilled, leaked, and/or placed on the land at the Site in such a manner that waste, or constituents thereof, may enter the environment, be emitted into the air, or be discharged into waters or ground waters. Therefore, "disposal" occurred on the Site as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2016).

28. The Site is a "site" on which waste had been "disposed," as those terms are defined in Sections 3.185 and 3.460 of the Act, 415 ILCS 5/3.185 and 5/3.460 (2016), making the Site a "disposal site" as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2016).

29. Section 3.445 of the Act, 415 ILCS 5/3.445 (2016), provides, in pertinent part, as follows:

"Sanitary landfill" means a facility permitted by the Agency for the disposal of waste on land ... without creating nuisance 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 regulation.

30. Section 3.105 of the Act, 415 ILCS 5/3.105 (2016), provides as follows:

"Agency" is the Environmental Protection Agency established by this Act.

31. At all times relevant to this Complaint, the Site was not permitted by Illinois EPA for the disposal of wastes on land, and therefore is not a "sanitary landfill" as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2016).

32. Prior to September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the consolidation of refuse at a disposal site not meeting the requirements of a sanitary landfill, and therefore caused or allowed open dumping of waste at the Site.

33. By causing or allowing the open dumping of waste at the Site, Respondent violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016);
- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-33. Complainant realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count II.

34. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2016), provides as follows:

No person shall:

* * *

(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;

35. Discarded materials present at the Site on September 14, 2017 and September 28, 2017, including but not limited to, seed bags, boxes, signs, bad seed, pallets, empty agri-chemical tanks, old applicator frames, scrap metal, large vertical metal tanks, plastic totes in metal cages (with some containing pesticide rinse water), tires, and 55-gallon drums, constitute litter.

36. Prior to September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the open dumping of waste at the site in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2016), in a manner than resulted in litter, and thereby violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

A. Finding that Respondent has violated Section 21(p)(1) of the Act, 415 ILCS

5/21(p)(1) (2016);

- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT III
CONDUCTING A WASTE-DISPOSAL OPERATION WITHOUT A PERMIT

1-24. Complainant realleges and incorporates by reference herein paragraphs 1 through 16, 18 through 22, 26, 27, and 30 of Count I as paragraphs 1 through 24 of this Count III.

25. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016), 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, . . .

26. Section 3.480 of the Act, 415 ILCS 5/3.480 (2016), provides as follows:

“Storage” means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal.

27. Waste was contained at the Site on a temporary basis in such a manner as not to

constitute disposal. Therefore, "storage" occurred at the Site as that term is defined in Section 3.480 of the Act, 415 ILCS 5/3.480 (2016).

28. Respondent has never been granted a permit from Illinois EPA to conduct a waste-storage operation at the Site.

29. Prior to September 14, 2017, and on dates better known to the Respondent, Respondent conducted a waste-storage operation at the Site without a permit granted by Illinois EPA.

30. By conducting a waste-storage operation at the Site without a permit granted by Illinois EPA, Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016);
- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IV
DEVELOPING AND OPERATING A LANDFILL WITHOUT A PERMIT

1-23. Complainant realleges and incorporates by reference herein paragraphs 1 through 16, 18 through 22, 26 and 27 of Count I as paragraphs 1 through 23 of this Count IV.

24. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), provides, in pertinent part, as follows:

No person shall:

* * *

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

* * *

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

25. Section 812.101(a) of the Illinois Pollution Control Board's ("Board") 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 ½, 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.

26. Section 810.101 of the Board's regulations, 35 Ill. Adm. Code 810.101, provides, in pertinent part, as follows:

This Part applies to all solid waste disposal facilities regulated pursuant to 35 Ill. Adm. Code 811 through 817. . . .

27. Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103, provides, in pertinent part, as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

* * *

“Facility” means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. . . .

* * *

“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.

* * *

“Solid Waste” means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste pursuant to 35 Ill. Adm. Code 721.

* * *

“Waste pile” means an area on which non-containerized masses of solid, non-flowing wastes are placed for disposal. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, a waste pile is a landfill, unless the operator can demonstrate that the wastes are not accumulated over time for disposal. At a minimum, such demonstration must include photographs, records, or other observable or discernible information, maintained on a yearly basis, that show that within the preceding year the waste has been removed for utilization or disposal elsewhere.

28. Discarded materials present at the Site on September 14, 2017, including, but not

limited to, seed bags, boxes, signs, bad seed, pallets, empty agri-chemical tanks, old applicator frames, scrap metal, large vertical metal tanks, plastic totes in metal cages (with some containing pesticide rinse water), tires, and 55-gallon drums, constitute "solid waste," as that term is defined in Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103.

29. Solid waste is located on and has been disposed of on the Site, and the Site is therefore a "facility" within the meaning of Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103.

30. Solid waste disposed on parts of the Site constitute a "landfill," as that term is defined in Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103.

31. Respondent has never applied for a permit from Illinois EPA to develop and operate a landfill at the Site.

32. Beginning on or before September 14, 2017, and on dates better known to the Respondent, Respondent developed and operated the Site and/or portions thereof as a landfill without applying for a permit from Illinois EPA to develop or operate a landfill.

33. By developing and operating a landfill at the Site without applying for a permit from Illinois EPA, Respondent violated Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a).

34. By violating Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a), Respondent conducted a waste-disposal operation in violation of a regulation adopted by the Board, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), and Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a);
- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT V
WASTE DETERMINATION VIOLATIONS

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count I and paragraph 24 of Count IV as paragraphs 1 through 16 of this Count V.

17. Section 722.111 of the Board regulations, 315 Ill. Adm. Code 722.111, provides:

A person that generates a solid waste, as defined in 35 Ill. Adm. Code 102, must determine if that waste is a hazardous waste using the following method:

- a) The person should first determine if the waste is excluded from regulation under 35 Ill. Adm. Code 721.104.
- b) The person should then determine if the waste is listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721.

BOARD NOTE: Even if a waste is listed as a hazardous waste, the generator still has an opportunity under 35 Ill. Adm. Code 720.122 to demonstrate that the waste from the generator's particular

facility or operation is not a hazardous waste.

- c) For purposes of compliance with 35 Ill. Adm. Code 728, or if the waste is not listed as a hazardous waste in Subpart D of 35 Ill. Adm. Code 721, the generator must then determine whether the waste is identified in Subpart C of 35 Ill. Adm. Code 721 by either of the following methods:
 - 1) Testing the waste according to the methods set forth in Subpart C of 35 Ill. Adm. Code 721, or according to an equivalent method approved by the Board under 35 Ill. Adm. Code 720.121; or
 - 2) Applying knowledge of the hazard characteristic of the waste in light of the materials or processes used.
- d) If the generator determines that the waste is hazardous, the generator must refer to 35 Ill. Adm. Code 721, 724 through 728 and 733 for possible exclusions or restrictions pertaining to the management of the specific waste.

18. Section 721.102 of the Board regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent part, as follows:

1) A solid waste is any discarded material that is not excluded pursuant to Section 721.104(a) or that is not excluded pursuant to 35 Ill. Adm. Code 720.130 and 720.131 or 35 Ill. Adm. Code 720.130 and 720.134.

19. Section 808.121(a) of the Board regulations, 35 Ill. Adm. Code 808.121(a), provides:

- a) Each person who generates waste shall determine whether the waste is a special waste.

BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

20. Respondent is a person that generates solid waste, as that term is defined in Section 721.102 of the Board regulations, 35 Ill. Adm. Code 721.102.

21. Respondent failed to make a waste determination for the eight 55-gallon

drums and containers of pesticide rinse water.

22. By failing to determine if the 55-gallon drums and containers of pesticide rinse water were a hazardous waste, Respondent violated Section 722.111 of the Board regulations, 35 Ill. Adm. Code 722.111, and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), by conducting a waste-disposal operation in violation of regulations adopted by the Board.

23. By failing to determine whether the waste it generated was a special waste, Respondent violated Section 808.121(a) of the Board regulations, 35 Ill. Adm. Code 808.121(a), and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016), by conducting a waste-disposal operation in violation of regulations adopted by the Board.

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

A. Finding that Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2016) and Sections 722.111 and 808.121(a) of the Board regulations, 35 Ill. Adm. Code 722.111 and 808.121(a);

B. Ordering Respondent to cease and desist from any further violations of the Act;

C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;

D. Ordering the Respondent to pay all costs, including expert witness, consultant and

attorney fees, expended by the State in pursuit of this action; and

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

COUNT VI
WASTE DISPOSAL AT AN IMPROPER SITE

1-45. Complainant realleges and incorporates by reference herein paragraphs 1 through 16, 18 through 22 and 24 through 31 of Count I, paragraphs 24 through 30 of Count IV, and paragraphs 17 through 23 of Count V as paragraphs 1 through 45 of this Count VI.

46. Section 21(e) of the Act, 415 ILCS 5/21(e) (2016), provides, in pertinent part, as follows:

No person shall:

* * *

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

47. The Site is not a site or facility that meets the requirements of the Act and of the regulations and standards promulgated thereunder for disposal or storage of waste.

48. Beginning on or before September 14, 2017, and on dates better known to the Respondent, Respondent disposed of, stored, and/or abandoned wastes at the Site.

49. By disposing, storing, and/or abandoning wastes at the Site, Respondent violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e)

(2016);

- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT VII
OPEN DUMPING OF USED OR WASTE TIRES

1-30. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 and 18 through 31 of Count I as paragraphs 1 through 30 of this Count VII.

31. Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2016), provides as follows:

(a) No person shall:

(1) Cause or allow the open dumping of any used or waste tire.

32. Section 54.10 of the Act, 415 ILCS 5/54.10 (2016), provides as follows:

“Tire” means a hollow ring, made of rubber or similar materials, which was manufactured for the purpose of being placed on the wheel rim of a vehicle.

33. Section 54.13 of the Act, 415 ILCS 5/54.13 (2016), provides as follows:

“Used tire” means a worn, damaged, or defective tire that is not mounted on a vehicle.

34. Section 54.16 of the Act, 415 ILCS 5/54.16 (2016), provides as follows:

“Waste tire” means a used tire that has been disposed of.

35. Section 54.04 of the Act, 415 ILCS 5/54.04 (2016), provides as follows:

“Disposal” means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business.

36. Unmounted and worn tires on the Site constitute “used tires,” as that term is defined in Section 54.13 of the Act, 415 ILCS 5/54.13 (2016).

37. Used tires placed on the land at the Site were not systematically reused or converted in the regular course of business, and the placement of used tires on the land in such manner constitutes “disposal” as that term is defined in Section 54.04 of the Act, 415 ILCS 5/54.04 (2016).

38. Upon their disposal, used tires on the Site constituted “waste tires” as that term is defined in Section 54.16 of the Act, 415 ILCS 5/54.16 (2016).

39. Respondent has never been granted a permit from Illinois EPA to conduct a tire storage or disposal operation at the Site.

40. Beginning on or before September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the consolidation of used and/or waste tires at the Site in a manner that constitutes open dumping.

41. By causing or allowing open dumping of used and/or waste tires at the Site, Respondent violated Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

A. Finding that Respondent has violated Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2016);

- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT VIII
AIR POLLUTION – OPEN BURNING

1-22. Complainant realleges and incorporates by reference herein paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count VIII.

23. Section 9 of the Act, 415 ILCS 5/9 (2016), provides, in pertinent part, as follows:

No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

* * *

- (c) Cause or allow the open burning of refuse. . . . except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

24. Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), provides as follows:

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

25. Section 3.115 of the Act, 415 ILCS 5/3.115 (2016), provides as follows:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

26. Section 3.300 of the Act, 415 ILCS 5/3.300 (2016), provides as follows:

“Open burning” is the combustion of any matter in the open or in an open dump.

27. On or before September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the open burning of refuse in such a manner that was not approved by Illinois EPA or the Board.

28. On or before September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the burning of refuse at the Site, and thereby caused or threatened or allowed the discharge or emission of containments into the environment so as to cause or tend to cause air pollution in Illinois.

29. By causing or threatening or allowing the discharge or emission of containments into the environment so as to cause or tend to cause air pollution in Illinois, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2016).

30. By causing or allowing the open burning of refuse in a manner that was not approved by the Agency or the Board, Respondent violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully

requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 9(a), (c) of the Act, 415 ILCS 5/9(a), (c) (2016);
- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and
- E. Granting such other relief as the Board may deem appropriate.

COUNT IX
OPEN DUMPING RESULTING IN OPEN BURNING

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 32 of Count I and paragraphs 23 and 26 of Count VIII as paragraphs 1 through 34 of this Count IX.

35. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2016), provides as follows:

No person shall:

* * *

(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:

* * *

(3) open burning;

36. On or before September 14, 2017, and on dates better known to the Respondent, Respondent caused or allowed the open dumping of wastes at the Site in a manner that resulted in open burning.

37. By causing or allowing open dumping at the Site that resulted in open burning, Respondent violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2016).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, PITCHFORD ELEVATOR COMPANY, an Illinois corporation:

- A. Finding that Respondent has violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2016);
- B. Ordering Respondent to cease and desist from any further violations of the Act;
- C. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016), imposing upon Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of \$10,000 for each day such violations continued;
- D. Ordering the Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and


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

Respectfully Submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General of
the State of Illinois.

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CERTIFICATE OF SERVICE

I, Christina Nannini, an Assistant Attorney General, certify that on the 9th day of July, 2019, I caused to be served via electronic mail the foregoing Notice of Filing and Complaint to the following:

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