

BEFORE THE ILLINOIS POLLUTION BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
by KWAME RAOUL, Attorney General)
of the State of Illinois,)
))
Complainant,)
))
v.)
))
YAK MAT, LLC,)
a Mississippi limited liability company,)
BIRCH CREEK TIMBER, LLC,)
an Illinois limited liability company, and)
LEON STUTZMAN, an individual,)
))
Respondents.)

**PCB No. 2020-
(Enforcement)**

NOTICE OF FILING

TO: See attached service list

PLEASE TAKE NOTICE that I did on September 28, 2020, filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Notice of Filing, a copy of which is attached and hereby served upon you. You may be required to answer the charges of the Complaint at a hearing before the Board, at a date set by the Board.

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.

NOTIFICATION- YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act [20 ILCS 3515/1, et seq.] to correct the alleged violations.

PEOPLE OF THE STATE OF ILLINOIS
By KWAME RAOUL, ATTORNEY GENERAL

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

BY: /s/Emma L. Hudspath
Emma L. Hudspath
Environmental Bureau
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62701
(217)782-9031
ehudspath@atg.state.il.us
ebs@atg.state.il.us

Service List

For the Respondents

Yak Mat, LLC
c/o CT Corporation System, Registered Agent
208 So Lasalle Street, Suite 814
Chicago, Illinois

Birch Creek Timber, LLC
c/o Leon Stutzman, Registered Agent
1392 NE 800 Avenue
Roodhouse, Illinois 62082

Leon Stutzman
1392 NE 800 Avenue
Roodhouse, Illinois 62082

BEFORE THE ILLINOIS POLLUTION BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney General)	
of the State of Illinois,)	
)	
Complainant,)	
)	
v.)	PCB No. 2020-
)	(Enforcement)
YAK MAT, LLC,)	
a Mississippi limited liability company,)	
BIRCH CREEK TIMBER, LLC,)	
an Illinois limited liability company, and)	
LEON STUTZMAN, an individual,)	
)	
Respondents.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, complains of the Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, as follows:

COUNT I
OPEN DUMPING OF WASTE

1. This Count is brought by the Attorney General on his 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 (2018), against Respondents YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly under Section 4 of the Act, 415 ILCS 5/4 (2018), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

3. The Illinois Pollution Control Board (“Board”) is an independent board created by the General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2018), and charged, *inter alia*, with the duty of determining standards and adopting regulations.

4. This Count is brought after providing Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, with notice and the opportunity for a meeting with the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018).

5. Respondent, YAK MAT, LLC (“Yak Mat”), is a Mississippi limited liability company that is authorized to transact business in Illinois. Yak Mat supplies access mats used in the construction and other industries, including timber mats.

6. Respondent, BIRCH CREEK TIMBER, LLC (“Birch Creek”), is an Illinois limited liability company in good standing. Birch Creek is a hauling company.

7. Respondent, LEON STUTZMAN (“Stutzman”), is the registered agent and manager for Birch Creek and the owner of a property located near the intersection of County Roads 2650N and 1725E approximately one-mile east-northeast of Roodhouse, Greene County, Illinois (“Disposal Site”). Stutzman is also the owner of a property located at 1392 NE 800 Avenue, Roodhouse, Illinois (“Stutzman Site”), where he resides.

8. On a date better known to Respondents, Yak Mat entered into an agreement with Birch Creek for the disposal of timber mats belonging to Yak Mat. The mats were to be transported to the Stutzman Site for disposal.

9. On March 29, 2018, the Illinois EPA inspected the Disposal Site after receiving a complaint of a large fire at the Disposal Site. Approximately twenty (20) rows of timber mat stacks 150 feet long and 10 feet tall, covering approximately two (2) acres, were present at the Disposal Site. The timber mats were burning.

10. While inspecting the Site, the Illinois EPA encountered a representative of Birch Creek, who identified Stutzman as the owner of the Disposal Site. The representative contacted Stutzman via telephone and relayed Illinois EPA's request that he come to the Site. That representative advised Illinois EPA that the timber mats had been brought to the Disposal Site from the construction of a petroleum pipeline near Murrayville, Illinois.

11. Stutzman arrived at the Disposal Site during Illinois EPA's inspection. He advised that he started the fire on March 27, 2018, using diesel fuel as an accelerant. He also advised that he started transporting the mats from Murrayville to the Disposal Site beginning in December 2017. He advised that he had taken the mats from Yak Mat with the intention of burning them to make potash fertilizer and selling the tie rods for their scrap value.

12. The Roodhouse Fire Department was called to respond to the Disposal Site and extinguish the fire. Two thousand five hundred (2,500) gallons of water was placed on the fire to little effect. As a result, the fire was then allowed to burn itself out.

13. On March 30, 2018, Stutzman called Illinois EPA and advised that Yak Mat had paid \$50,000 to dispose of the mats and \$60,000 for the cost of transporting the mats from a construction project near Murrayville, Illinois to Roodhouse. These amounts are consistent with the amounts reflected in the written agreement between Yak Mat and Birch Creek.

14. On June 11, 2018, Illinois EPA issued Violation Notices to Stutzman and Yak Mat. In Yak Mat's response, it included a copy of the written agreement Yak Mat had with Birch Creek for disposal of the mats, which was dated November 28, 2017. A Violation Notice was issued to Birch Creek on July 27, 2018. In a September 4, 2018 response, Stutzman stated that the Disposal Site had been cleaned, tilled, and seeded, and provided receipts for the disposal of approximately

85 tons of waste and recycling of 179 tons of scrap metal at a licensed facility. Stutzman also advised that he spread some of the ash on his fields at the Stutzman Site.

15. Respondents have never been granted a permit from Illinois EPA to dispose of waste at the Disposal Site or the Stutzman Site.

16. Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), provides as follows:

No person shall:

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

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2018), 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.

18. Respondent Stutzman is an individual and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2018).

19. Respondent Yak Mat is a limited liability company and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315.

20. Respondent Birch Creek is a limited liability company and therefore a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315.

21. Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), 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...

22. Section 3.385 of the Act, 415 ILCS 5/3.385 (2018), provides as follows:

“Refuse” means waste.

23. The timber mats and ash present on the Disposal Site beginning in December 2017, and on dates better known to the Respondents, and the ash spread on the Stutzman Site subsequent to the burning of those mats, were “discarded material,” and therefore “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2018), and therefore also “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2018).

24. Section 3.305 of the Act, 415 ILCS 5/3.305 (2018), 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.

25. Section 3.460 of the Act, 415 ILCS 5/3.460 (2018), 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.

26. The Disposal Site and the Stutzman Site are each a “site” as that term is defined in Section 3.460 of the Act, 415 ILCS 5/2.460 (2018).

27. Section 3.185 of the Act, 415 ILCS 5/3.185 (2018), 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.

28. Waste was discharged, deposited, dumped, spilled, leaked and/or placed on the land at the Disposal Site and the Stutzman Site in such a manner that waste, or constituents thereof, could enter the environment, be emitted into the air, or be discharged into waters or ground waters. Therefore, “disposal” occurred at the Disposal Site and the Stutzman Site as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2018).

29. The Disposal Site and the Stutzman Site are each a “site” on which waste has 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 (2018), making the Disposal Site and the Stutzman Site each a “disposal site” as that term is used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2018).

30. Section 3.445 of the Act, 415 ILCS 5/3.445 (2018), provides, in pertinent part, as follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land . . . 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 regulation.

31. Section 3.105 of the Act, 415 ILCS 5/3.105 (2018), provides as follows:

“Agency” is the Environmental Protection Agency established by this Act.

32. At all times relevant to this Complaint, the Disposal Site and the Stutzman Site have not been permitted by Illinois EPA for the disposal of wastes on land, and therefore each is not a “sanitary landfill” as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2018).

33. Beginning prior to March 29, 2018, and on dates better known to Respondents, Respondents have caused or allowed the consolidation of refuse at the Disposal Site, a disposal site not meeting the requirements of a sanitary landfill, and therefore have caused or allowed open dumping of waste at the Disposal Site.

34. By causing or allowing the open dumping of waste at the Disposal Site, Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018).

35. On dates better known to Respondents, Respondents have caused or allowed the consolidation of refuse at the Stutzman Site, a disposal site not meeting the requirements of a

sanitary landfill, and therefore have caused or allowed open dumping of waste at the Stutzman Site.

36. By causing or allowing the open dumping of waste at the Stutzman Site, Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count I:

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

B. Finding that Respondents have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2018);

C. Ordering Respondents to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT II
OPEN DUMPING RESULTING IN LITTER

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I as paragraphs 1 through 34 of this Count II.

35. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), 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;

36. Discarded materials present at the Disposal Site on March 29, 2018, including, but not limited to, timber mats and ash, constitute litter.

37. Beginning prior to March 29, 2018, and on dates better known to Respondents, Respondents have caused or allowed the open dumping of waste at the Disposal Site in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), in a manner that resulted in litter and thereby have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count II:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018);

C. Ordering Respondents to cease and desist from any further violations of Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT III
OPEN DUMPING OF GENERAL CONSTRUCTION OR DEMOLITION DEBRIS

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I as paragraphs 1 through 34 of this Count III.

35. Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2018), 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:

* * *

(7) deposition of:

(i) general construction or demolition debris as defined in Section 3.120(a) of this Act; or

36. Section 3.160 of the Act, 415 ILCS 5/3.160 (2018), provides, in pertinent part, as follows:

- (a) “General construction or demolition debris” means non-hazardous, uncontaminated materials resulting from the construction, remodeling, repair, and demolition of utilities, structures, and roads, limited to the following: bricks, concrete, and other masonry materials; soil; rock; wood, including non-hazardous painted, treated, and coated wood and wood products; wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles and other roof coverings; reclaimed or other asphalt pavement; glass; plastics that are not sealed in a manner that conceals waste; electrical wiring and components containing no hazardous substances; and corrugated cardboard, piping or metals incidental to any of those materials.

37. Discarded materials present at the Disposal Site on March 29, 2018, including, but not limited to, timber mats, constitute “general construction or demolition debris” as that term is defined in Section 3.160(a) of the Act, 415 ILCS 5/3.160(a) (2018).

38. On March 29, 2018, and on dates better known to Respondents, Respondents caused or allowed the open dumping of waste at the Disposal Site in violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), in a manner that resulted in the deposition of general construction or demolition debris, and have thereby violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count III:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2018);

C. Ordering Respondents to cease and desist from any further violations of Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT IV
OPEN BURNING VIOLATIONS

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I as paragraphs 1 through 34 of this Count IV.

35. Section 9 of the Act, 415 ILCS 5/9 (2018), 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.

36. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (20118), 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;

37. Section 3.165 of the Act, 415 ILCS 5/3.165 (2018), provides as follows:

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

38. Section 3.115 of the Act, 415 ILCS 5/3.115 (2018), 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.

39. Section 3.300 of the Act, 415 ILCS 5/3.300 (2018), provides as follows:

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

40. On or before March 29, 2018, and on dates better known to Respondents, Respondents caused or allowed the open burning of refuse at the Disposal Site, and thereby caused, threatened or allowed the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois.

41. By causing, threatening, or allowing the discharge or emission of contaminants into the environment so as to cause or tend to cause air pollution in Illinois, Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2018).

42. On or before March 29, 2018, and on dates better known to Respondents, Respondents caused or allowed the open burning of refuse at the Disposal Site in such a manner that was not approved by Illinois EPA or the Board.

43. By causing or allowing the open burning of refuse at the Disposal Site in a manner that was not approved by Illinois EPA or the Board, Respondents have violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2018).

44. On or before March 29, 2018, and on dates better known to Respondents, Respondents caused or allowed the open dumping of wastes at the Disposal Site in a manner that resulted in open burning.

45. By causing or allowing the open dumping at the Disposal Site that resulted in open burning, Respondents have violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count IV:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Sections 9(a) and (c) and 21(p)(3) of the Act, 415 ILCS 5/9(a), (c) and 21(p)(3) (2018);

C. Ordering Respondents to cease and desist from any further violations of Sections 9(a) and (c) and 21(p)(3) of the Act, 415 ILCS 5/9(a), (c) and 21(p)(3) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT V
CONDUCTING A WASTE-DISPOSAL
OPERATION WITHOUT A PERMIT

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I as paragraphs 1 through 34 of this Count V, as follows:

35. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018), 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,
...

36. Respondents have never been granted a permit by Illinois EPA to conduct a waste-disposal operation at the Disposal Site.

37. Beginning prior to March 29, 2018, and on dates better known to the Respondents, Respondents have conducted a waste-disposal operation at the Disposal Site without a permit granted by Illinois EPA.

38. By conducting a waste-disposal operation at the Disposal Site without a permit granted by Illinois EPA, Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count V:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018);

C. Ordering Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT VI
DEVELOPING AND OPERATING A
LANDFILL WITHOUT A PERMIT

1-34. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I as paragraphs 1 through 34 of Count VI.

35. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018), 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. . .

36. Section 812.101(a) of the Board's 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)0 [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 by 35 Ill. Adm. Code 817.

37. 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. . .

38. 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. . . .

* * *

“Putrescible waste” means a solid waste that contains organic matter capable of being decomposed by microorganisms so as to cause a malodor, gases, or other offensive conditions, or which is capable of providing food for birds and vectors. Putrescible wastes may form a contaminated leachate from microbiological degradation, chemical processes, and physical processes. Putrescible waste includes, but is not limited to, garbage, offal, dead animals, general household waste, and commercial waste. All solid wastes that do not meet the definition of inert or chemical wastes will be considered putrescible wastes.

* * *

“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.

39. Discarded materials present at the Disposal Site on March 29, 2018, including, but not limited to, timber mats and ash, constitute “putrescible waste” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103, and therefore “solid waste,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

40. The accumulation of solid waste at the Disposal Site without certain plans for disposal elsewhere and without measure to confine or contain the solid waste’s entry into the environment constitutes “disposal,” as that term is defined in Section 810.103 of the Board’s Regulations, 35 Ill. Adm. Code 810.103.

41. Solid waste was located on and has been disposed of on the Disposal Site, and the Disposal Site is therefore a “facility” within the meaning of Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

42. Solid waste has been placed and accumulated over time for disposal on parts of the Disposal Site. Such 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.

43. The accumulations of non-containerized masses of solid waste were placed on parts of the Disposal Site. Such parts of the Disposal Site constitute a “landfill,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

44. Waste piles on the Disposal Site constitute a “landfill,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

45. Respondents have never received a permit from Illinois EPA to develop and operate a landfill at the Disposal Site.

46. Beginning prior to March 29, 2018, and on dates better known to Respondents, Respondents have developed and operated the Disposal Site and/or portions thereof as a landfill without applying for a permit from Illinois EPA to develop or operate a landfill.

47. By developing and operating a landfill at the Disposal Site without receiving a permit from the Illinois EPA, Respondents have violated Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a).

48. By violating Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a), Respondents have conducted a waste-disposal operation in violation of a regulation adopted by the Board, and thereby have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count VI:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018), and Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a);

C. Ordering Respondents to cease and desist from any further violations of Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2018), and Section 812.101(a) of the Board's regulations, 35 Ill. Adm. Code 812.101(a);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

COUNT VII
WASTE DISPOSAL AT AN IMPROPER SITE

1-52. Complainant realleges and incorporates by reference herein paragraphs 1 through 34 of Count I, paragraphs 35 through 38 of Count V, and paragraphs 35 through 48 of Count VI, as paragraphs 1 through 52 of this Count VII.

53. Section 21(e) of the Act, 415 ILCS 5/21(e), 415 ILCS 5/21(e) (2018), provides 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.

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

55. Beginning prior to March 29, 2018, on dates better known to Respondents, Respondents have disposed of and/or abandoned wastes at the Disposal Site.

56. By disposing and/or abandoning wastes at the Disposal Site, Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

PRAYER FOR RELIEF

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, YAK MAT, LLC, BIRCH CREEK TIMBER, LLC, and LEON STUTZMAN, on Count VII:

A. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations alleged herein;

B. Finding that Respondents have violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2018);

C. Ordering Respondents to cease and desist from any further violations of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018);

D. Assessing against each Respondent a civil penalty of up to \$50,000.00 for each violation of the Act, and an additional civil penalty of up to \$10,000.00 for each day such violation continued, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2018);

E. Ordering Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in pursuit of this action; and

F. Ordering such other and further relief as the Board may deem appropriate and just.

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

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

By: /s/ Andrew Armstrong

ANDREW B. ARMSTRONG, Chief
Environmental Bureau
Assistant Attorney General
ARDC #6282447

Emma L. Hudspath
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706
ARDC #6324083
Ph: (217) 557-4635
Fax: (217) 524-7740
ehudspath@atg.state.il.us
ebs@atg.state.il.us

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2020, I served by certified mail, return receipt requested a true and correct copy of the documents entitled Notice of File and Complaint to:

Yak Mat, LLC
c/o CT Corporation System, Registered Agent
208 So Lasalle Street, Suite 814
Chicago, Illinois

Birch Creek Timber, LLC
c/o Leon Stutzman, Registered Agent
1392 NE 800 Avenue
Roodhouse, Illinois 62082

Leon Stutzman
1392 NE 800 Avenue
Roodhouse, Illinois 62082

s/Lilia M Brown
Lilia M. Brown
Administrative Clerk

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Affidavit of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

s/Lilia M Brown
Lilia M. Brown
Administrative Clerk